
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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Affecting Calendar Number:

205-04-BZ	375 Tennyson Drive, Staten Island
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DOCKET

New Case Filed Up to February 12, 2008

26-08-A

35 Bedford Avenue, North side 475.70' west of 12th Avenue., Block 16350, Lot(s) p/o 300, Borough of **Queens, Community Board: 14**. Construction not fronting on a legally mapped street, contrary to General City Law Section 36.

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

MARCH 4, 2008, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 4, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

751-60-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 105 New Dorp Equities, Incorporated, owner.

SUBJECT – Application November 7, 2007 – Extension of Term of a previously granted Variance (72-21) for the operation of a gasoline service station, in C2-1 in R3-1and R3X zoning district, which expired on March 23, 2006; an amendment for an additional pump island and waiver of the rules of procedure.

PREMISES AFFECTED –105 New Dorp Lane, northern corner of New Dorp Lane and New Dorp Plaza, Block 3630, Lot 30, Borough of Staten Island.

COMMUNITY BOARD #2SI

66-90-BZII

APPLICANT – Walter T. Gorman, P.E., P.C., for A.H. G. Realty Corporation, owner

SUBJECT – Application January 31, 2008 – Extension of Time to obtain a Certificate of Occupancy, which expired on November 14, 2002, for an Automotive Service Station (Mobil) in an R5 zoning district and a waiver of the rules. PREMISES AFFECTED – 43-07 Astoria Boulevard, northeast corner of 43rd Street, Block 780, Lot 18, Borough of Queens.

COMMUNITY BOARD #1Q

370-02-BZII

APPLICANT – Sheldon Lobel, P.C., for New York Hospital Medical Center of Queens, owner

SUBJECT – Application February 1, 2008 – Extension of Time to obtain a Certificate of Occupancy for a (UG4) Medical Offices, in an R5B zoning district, which expired on May 20, 2007, and a waiver of the rules.

PREMISES AFFECTED – 56-14 Main Street, between 56th and Booth Memorial Avenue, Block 5133, Lot 40, Borough of Queens.

COMMUNITY BOARD #7Q

373-02-BZII

APPLICANT – Sheldon Lobel, P.C., for New York Hospital Medical Center of Queens, owner.

SUBJECT – Application February 1, 2008 – Extension of Time to obtain a Certificate of Occupancy for a (UG4) Medical Offices, in an R5B zoning district, which expired on May 20, 2007, and a waiver of the rules.

PREMISES AFFECTED – 56-44 Main Street, between 56th and Booth Memorial Avenue, Block 5133, Lot 55, Borough of Queens.

COMMUNITY BOARD #7Q

APPEALS CALENDAR

228-07-A & 234-07-A

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Donald Bischoff, owner.

SUBJECT – Application October 9, 2007 – Proposed construction of two- two family dwellings located within the bed of a mapped street (property street) contrary to Section 35 of the General City Law. R3-2 Zoning District.

PREMISES AFFECTED – 29 Colon Avenue, 20 Lindenwood Road, between Colon Avenue and Lindenwood, south of Baltimore Street, Block 5433, Lots 75 & 98, Borough of Staten Island.

COMMUNITY BOARD #3SI

279-07-A

APPLICANT – Valentino Pompeo, for Breezy Point Cooperative, Inc., owner; Tom McLaren, lessee.

SUBJECT – Application December 6, 2007 – Proposed 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 District.

PREMISES AFFECTED – 34 Reid Avenue, south west of Reid Avenue, north west of Marshall Avenue, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #4Q

292-07-A

APPLICANT – Valentino Pompeo, for Breezy Point Cooperative, Inc., owner; Doreen A. Dolan, lessee.

SUBJECT – Application December 28, 2007 – Proposed 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 district.

PREMISES AFFECTED – 41 Queens Walk, east side of Queens, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

MARCH 4, 2008, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, March 4, 2008, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

278-07-BZ

APPLICANT – Bryan Cave LLP/Margery Perlmutter, for NY Presbyterian Hospital/Trustees of Columbia University, owner.

SUBJECT – Application December 4, 2007 – Variance (§72-21) to permit the erection of three 30 foot high "pylon" signs that would be located at major entrances to a medical center campus. The proposal is contrary to section 22-342. R8 district.

PREMISES AFFECTED – 630 West 168th Street, bounded by Broadway, West 165th and 168th Streets, Riverside Drive, and Fort Washington Avenue, Block 2138, 2139, Lots 1, 15, 80, 85, 30, 40, Borough of Manhattan.

COMMUNITY BOARD #12M

285-07-BZ

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

SUBJECT – Application December 17, 2007 – Special Permit (§73-36) to allow the legalization of a Physical Culture Establishment on the second floor of a seven-story commercial building. The proposal is contrary to section 32-10. C5-2 district.

PREMISES AFFECTED – 312 Fifth Avenue, northwest side of Fifth Avenue between West 31st and 32nd Streets, Block 833, Lot 44, Borough of Manhattan.

COMMUNITY BOARD #5M

11-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Audrey Grazi and Ezra Grazi, owners.

SUBJECT – Application January 4, 2008 – Special Permit (§73-622) for the enlargement of an existing single family dwelling. This application seeks to vary open space and floor area (23-141); side yards (23-461) and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 3573 Bedford Avenue, Bedford Avenue between Avenue N and Avenue O, Block 7679, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #14BK

16-08-BZ

APPLICANT – Eric Palatnik, P.C., for Isaiah Florence, owner.

SUBJECT – Application January 15, 2008 – Special Permit (§73-622) for the enlargement of an existing single family dwelling. This application seeks to vary open space and floor area (23-141(a)); side yards (23-461) and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 2614 Avenue L, between East 26th and East 27th Streets, Block 7644, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, FEBRUARY 12, 2008
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

673-81-BZ

APPLICANT – David L. Businelli, for Joseph Montalbano, owner.

SUBJECT – Application August 20, 2007 – Extension of Term of variance granted pursuant to §72-21 permitting, in an R3-2 zoning district, the erection of a one story and cellar retail store and office building with accessory parking in the open area. The application was previously approved for a 15 year term which expired on January 5, 1997.

PREMISES AFFECTED – 2075 Richmond Avenue, East side of Richmond Avenue 461.94' N. feet from corner of Rockland Avenue, Block 2015, Lot 28, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: David L. Businelli.

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, a re-opening, and an extension of term that expired on January 5, 1997; and

WHEREAS, a public hearing was held on this application on December 11, 2007, after due notice by publication in *The City Record*, with a continued hearing on January 29, 2008, and then to decision on February 12, 2008; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by Chair Srinivasan; and

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

WHEREAS, the subject premises is located on the east side of Richmond Avenue, approximately 462 feet from Rockland Avenue; and

WHEREAS, on January 5, 1982, under the subject calendar number, the Board granted a variance application pursuant to ZR § 72-21, to permit, within an R3-2 zoning district, the construction of a one-story commercial building with accessory parking for a term of 15 years; and

WHEREAS, at hearing, the Board asked the applicant if all signage complies with C1 zoning district regulations; and

WHEREAS, in response, the applicant provided a revised zoning analysis, which reflects that the exterior sign does not comply with C1 zoning district regulations; and

WHEREAS, however, the applicant represents that the subject sign, with a total surface area of 97 sq. ft. (50 sq. ft. is the maximum permitted) has existed for the history of the development of the site; and

WHEREAS, the applicant agreed to remove the non-complying signage in the windows; and

WHEREAS, a site visit by the Board confirmed that the window signage had been removed; and

WHEREAS, based on the above, the Board finds that a 15-year term is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated January 5, 1982, so that as amended this portion of the resolution shall read: “to grant an extension of the term of the variance for a term of 15 years; *on condition* that any and all work shall substantially conform to drawings filed with this application marked ‘Received October 30, 2007’-(3) sheets; and *on further condition*:

THAT this grant shall be limited to a term of 15 years from February 12, 2008, expiring February 12, 2023;

THAT the above condition, and all conditions on the current Certificate of Occupancy, shall appear on the new Certificate of Occupancy;

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

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

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

(DOB Application No. 500867494)

Adopted by the Board of Standards and Appeals, February 12, 2008.

83-97-BZ

APPLICANT – Sheldon Lobel, P.C., for Gary S. Chubak and Lillian R. Chubak, owners.

SUBJECT – Application October 3, 2007 – Amendment – To remove the terms set forth in the prior resolution. The proposed amendment would authorize the control operation of the health care facility (UG4) at the premises located in an R1-2 zoning district with out a term.

PREMISES AFFECTED – 214-18 24th Street, south side of 24th Avenue, approximately 142 feet east of the corner formed by the intersection of Bell Boulevard and 24th Avenue, Block 6001, Lot 47, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Application granted on condition.

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THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, this is an application for a reopening and amendment to eliminate the term for a previously granted special permit pursuant to ZR § 73-125 to permit a health care facility (Use Group 4) in an R1-2 zoning district, which expired on October 21, 2007, and to reconfigure the configuration of onsite accessory parking; and

WHEREAS, a public hearing was held on this application on December 4, 2007, after due notice by publication in *The City Record*, with continued hearings on January 8, 2008 and January 29, 2008, and then to decision on February 12, 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 11, Queens, recommends approval of this application with the conditions that: (1) a large tree in the front yard be retained; and (2) that the term of the special permit be limited to ten years; and

WHEREAS, City Council Member Tony Avella has submitted a letter recommending approval of this application with the conditions ratified by Community Board 11; and

WHEREAS, the subject site is located on the south side of 24th Avenue, 121 feet east of Bell Boulevard; and

WHEREAS, the site has a lot area of 8,000 sq. ft., is occupied by a one-story and cellar one-family building located within an R1-2 zoning district, and five accessory on-site parking spaces; and

WHEREAS, the building is occupied by a medical office use; and

WHEREAS, on September 23, 1986, under BSA Cal. No. 985-85-BZ, and BSA Cal. No. 410-86-A, respectively, the Board granted a special permit pursuant to ZR § 73-125 and a companion appeal to permit a medical office (Use Group 4) in a one-story and cellar, one-family dwelling; and

WHEREAS, the special permit was limited to a term of five years, expiring on September 23, 1991; and

WHEREAS, because the special permit was not renewed, it lapsed, although the medical office use has continued, and

WHEREAS, on October 21, 1997, under the subject calendar number, the Board granted a new special permit to legalize the medical office for a term of ten years, to expire on October 21, 2007; and

WHEREAS, the instant application seeks to amend the special permit to eliminate the term; and

WHEREAS, pursuant to its continuing jurisdiction over the special permit, the Board is required to find that the amount of open area and its distribution conforms to standards appropriate to the character of the neighborhood; and

WHEREAS, the applicant states that the existing medical office occupies less than 25 percent of the lot area, with the remainder allotted to five required accessory off-street parking

spaces and to landscaping; and

WHEREAS, the applicant also seeks to pave a portion of its property and to reconfigure the layout of its accessory parking spaces; and

WHEREAS, the applicant initially sought Board approval for a redesign of its parking area to add an additional space which would have required removal of a large tree; and

WHEREAS, echoing the conditions of Community Board 11, the Board directed the applicant to retain the tree and to revert to the five parking spaces approved originally; and

WHEREAS, at hearing, the Board raised concerns about the availability of patient parking and the navigability of the proposed accessory parking plan; and

WHEREAS, the applicant subsequently provided a revised layout for five spaces that more efficiently allowed parking for employees as well as three spaces that would be available to both employees and visitors; and

WHEREAS, the Board notes that no changes are proposed to the building envelope; and

WHEREAS, the Board considered the elimination of the term and noted that the special permit under ZR § 73-125 did not require a term; and

WHEREAS, also, the Board notes that any expansion of the use would require approval by the Board; and

WHEREAS, based upon its review of the record, the Board finds that the requested elimination of term is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals, *reopens* and *amends* the resolution, dated October 21, 1997, so that as amended this portion of the resolution shall read: “to grant approval of an elimination of the term of the special permit; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans, and that all work and site conditions shall comply with drawings marked ‘Received October 3, 2007’ –(5) sheets and ‘January 22, 2008’-(1) sheet; and *on condition*:

THAT there shall be no change in use of the site, or modification to the building, parking or landscaping without prior approval from the Board;

THAT the term of the grant shall be eliminated;

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

THAT a certificate of occupancy shall be obtained within one year of the date of this grant, February 12, 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 410002526)

Adopted by the Board of Standards and Appeals, February 12, 2008.

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297-99-BZ, Vol. II

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

SUBJECT – Application May 29, 2007 – Extension of Time to obtain a Certificate of Occupancy/Waiver of the rules for an existing gasoline service station (Mobil Station) which expired on September 19, 2004 in a C2-2/R6B zoning district.

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

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: John Ronan.

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, a reopening, an amendment to the approved plans, and extensions of time to complete construction and obtain a certificate of occupancy for a gasoline service station; and

WHEREAS, a public hearing was held on this application on November 27, 2007, after due notice by publication in *The City Record*, with a continued hearing on January 15, 2008, and then to decision on February 12, 2008; and

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

WHEREAS, Community Board 11, Queens, waived its hearing on the application; and

WHEREAS, City Council Member Tony Avella recommends disapproval of this application until the following conditions are cured: (1) the planter encroachment into the sidewalk, (2) the presence of an outdoor lift, (3) the poor condition of the wall, including missing bricks, and a bent fence, and (4) the buckling sidewalk; and

WHEREAS, the site is located on the east side of Bell Boulevard, between Northern Boulevard and 45th Road; and

WHEREAS, the site is within a C2-2 (R6B) zoning district and is occupied with a gasoline service station; and

WHEREAS, on May 3, 1960, under BSA Cal. No. 477-31-BZ, the Board granted a variance to permit the construction of a gasoline service station, partially within a business district and partially within a residential district; and

WHEREAS, on December 6, 1988, under BSA Cal. No. 477-31-BZ, the Board approved an amendment which provided for certain minor site modifications; and

WHEREAS, on September 19, 2000, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-211, to permit the redesign of the site including the

construction of a new accessory convenience store building; and

WHEREAS, the term of the special permit was limited to ten years, to expire on September 19, 2010; and

WHEREAS, a condition of the grant was that substantial construction be completed in accordance with ZR § 73-70, which provides for four years from the date of the grant; and

WHEREAS, accordingly, the period to complete substantial construction lapsed on September 19, 2004; and

WHEREAS, the applicant initially sought to extend the time to complete construction and to obtain a new certificate of occupancy, under the special permit; and

WHEREAS, however, the Board noted that the applicant intended to revert to the existing conditions on the site instead of constructing the new building, pursuant to the approved plans associated with the special permit; and

WHEREAS, the Board determined that, the grant made under BSA Cal. No. 477-31-BZ was superseded by the subject special permit; and

WHEREAS, however, the applicant could amend the prior plans to reflect the existing/proposed conditions as long as the findings of the special permit are met; and

WHEREAS, at hearing, the Board asked the applicant to confirm that the current and proposed use and operation of the site meets the findings of ZR § 73-211; and

WHEREAS, the applicant represents that it will meet all of the findings once the noted modifications are made; and

WHEREAS, during the hearing process, the applicant amended the application to amend the site plan and to request additional time to complete construction and obtain a certificate of occupancy, pursuant to the revised plans; and

WHEREAS, at hearing, the Board directed the applicant to provide additional screening along the eastern lot line; and

WHEREAS, in response, the applicant revised the plans to reflect shrubs with a height of six feet along the eastern and southern lot lines; and

WHEREAS, additionally, the Board requested that the applicant eliminate two of the curb cuts on Bell Boulevard, to improve traffic flow; and

WHEREAS, in response, the applicant revised the site plan to reflect two, rather than four, curb cuts on Bell Boulevard and two curb cuts on Northern Boulevard; there are not any curb cuts on 45th Road; and

WHEREAS, at the Board's request, the applicant provided photographs to reflect that the planter at the corner of Northern Boulevard and Bell Boulevard was within the property line; and

WHEREAS, the applicant represents that all of the other concerns raised by City Council Member Avella have been resolved or are in the process of being resolved; and

WHEREAS, further, the Board directed the applicant to ensure that all signage complies with C2 zoning district regulations; and

WHEREAS, the Board may permit an extension of time to obtain a certificate of occupancy under a prior grant; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to the plans and extensions of time to complete construction and obtain a

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certificate of occupancy are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on September 19, 2000, so that as amended this portion of the resolution shall read: "to permit the noted amendment to the plans and to extend the time to complete construction and obtain a certificate of occupancy for one year from the date of this grant, until February 12, 2009, *on condition* that any and all work shall substantially conform to drawings filed with this application marked "Received December 21, 2007"- (4) sheets and "January 25, 2008"-(1) sheet; and *on further condition*:

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

THAT the underlying special permit shall expire on September 19, 2010;

THAT the site be maintained free of debris and graffiti;

THAT all landscaping be planted and maintained per the BSA-approved plans;

THAT all signage shall comply with C2 zoning district regulations;

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

THAT the site shall be brought into compliance with the BSA-approved plans and a certificate of occupancy shall be obtained by February 12, 2009;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 402586554)

Adopted by the Board of Standards and Appeals, February 12, 2008.

710-55-BZ

APPLICANT – Vincent L. Petraro, PLLC, for Tserpes Realty LLC, owner.

SUBJECT – Application October 19, 2007 – Extension of Term for a gasoline service station (Emporium) which expired on January 10, 2008 in an R3-2 zoning district.

PREMISES AFFECTED – 246-02 South Conduit Avenue, intersection of South Conduit Avenue & 139th Street, Block 13622, Lot 5, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Steven Simich.

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

824-61-BZ

APPLICANT – Vincent L. Petraro, PLLC, for Thomas E.

Quinn, owner.

SUBJECT – Application November 16, 2007 – Extension of Term allowing the use of surplus parking spaces for transient parking within a multiple dwelling presently located in a C1-9 /R8B zoning district granted by the Board pursuant to Section 60 (1d) of the Multiple Dwelling Law. PREMISES AFFECTED – 200-266 East 66th Street, block bounded by East 66th, East 65th, 2nd and 3rd Avenues, Block 1420, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Steven Simich.

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 March 11, 2008, at 10 A.M., for decision, hearing closed.

742-70-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for 830 Bay Street LLC, owner.

SUBJECT – Application July 13, 2007 – Application filed pursuant to §§72-01 and 72-22 for an Extension of Term/Amendment/Waiver for a previously approved variance which allowed in a C1-1(R3-2) zoning district the erection and maintenance of an automotive service station with accessory uses. The application seeks to legalize the installation of two storage containers contrary to the previously approved grant. The current term of the variance expired on May 18, 2001.

PREMISES AFFECTED – 830 Bay Street, Southwest corner of the intersection of Bay Street and Vanderbilt Avenue, Block 2836, Lot 14, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Adam Rothkrug.

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 February 26, 2008, at 10 A.M., for decision, hearing closed.

1199-88-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Joseph and Rosemarie Tranchina, owner.

SUBJECT – Application May 11, 2007 – Amendment filed pursuant to §§72-01 and 72-22 of the zoning resolution to permit within a C1-1(R3-1)(SRD) the enlargement of previously approved banquet hall (use group 9) and a change in use from offices (use group 6) to retail stores (use group 6).

PREMISES AFFECTED – 29 Nelson Avenue, east side of

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Nelson Avenue, northeast corner of Nelson Avenue and Locust Place, Block 5143, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Adam Rothkrug.

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 March 4, 2008, at 10 A.M., for decision, hearing closed.

50-92-BZ II

APPLICANT – Walter T. Gorman, P.E. for Higinio Caballero, owner.

SUBJECT – Application December 5, 2007 – Extension of Term (§72-01 and §72-22) to reopen the variance for a (UG8) public parking lot for a period of five years.

PREMISES AFFECTED – 1282 Shakespeare Avenue, Bronx, south east corner of west 169th Street, Block 2506, Lot 111, Borough of the Bronx

COMMUNITY BOARD #4BX

APPEARANCES –

For Applicant: John Ronan.

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 March 11, 2008, at 10 A.M., for decision, hearing closed.

120-01-BZ

APPLICANT – Sheldon Lobel, P.C., for Anthony Ariola, owner.

SUBJECT – Application January 23, 2008 – Extension of Time to obtain a Certificate of Occupancy for a previously granted Variance (§72-21) to permit the commercial use (UG6) in an existing two-story building, which expired on May 14, 2006, located in an R4 zoning district and a Waiver of the rules.

PREMISES AFFECTED – 134-02 Cross Bay Boulevard, western side of Cross Bay Boulevard, between Gold and Silver Roads, Block 11374, Lot 134, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES –

For Applicant: Elizabeth Safian.

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 March 11, 2008, at 10 A.M., for decision, hearing closed.

219-06-A thru 225-06-A

APPLICANT – Rothkrug, Rothkrug and Spector, for J. Berardi & C. Saffren, owners.

SUBJECT – Application August 30, 2006 – Application to permit the construction of seven two story one family dwellings within the bed of a mapped street (128th Drive) contrary to Section 35 of the General City Law and not fronting on a legally mapped street contrary to Article 3, Section 36 of the General City Law. Premises is located within the R-2 Zoning District.

PREMISES AFFECTED – 241-10/16/22/28/15/21/25 128th Drive, Block 12886, Lots 1003, 1005, 1007, 1009, 1004, 1006, 1008, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Appeal granted.

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 Queens Borough Commissioner, dated August 7, 2006, acting on Department of Buildings Application Nos. 401824692, 401824709, 401824727, 401824530, 401824521, 401824718, and 401824736, reads in pertinent part:

“Proposed building in a mapped street is contrary to Section 35 of the General City Law, Article 3 and must be referred to the BSA; and

Fire Department approval should be obtained because buildings do not front a public street. This issue affects both Groups and is contrary to GCL 36 which requires street frontage as a precondition for a Certificate of Occupancy. Furthermore, the proposed houses are contrary to Section 27-291 of the Administrative Code requires 8% minimum building perimeter fronting on legally mapped streets.”; and

WHEREAS, this application requests permission to build seven two-story, single-family homes located within the bed of a mapped street, 128th Drive, and not fronting on a legally mapped street; and

WHEREAS, a public hearing was held on this application on June 12, 2007, after due notice by publication in the *City Record*, with continued hearings on June 12, 2007, July 10, 2007, August 7, 2007, September 11, 2007, October 2, 2007, and November 27, 2007, then to decision on February 12, 2008; and

WHEREAS, by letter dated September 21, 2006, the Department of Environmental Protection (DEP) states that it reviewed the above application and advises the Board that there is an adopted Drainage Plan 42(5) 42S (15), 42SW (7) & 41SD (41) which calls for a future 12-in. diameter combined sewer in 128th Drive between Brookville Boulevard and Hook Creek Boulevard; and

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WHEREAS, DEP also notes that there is an existing 12-in. diameter combined sewer and an existing 8-in. diameter water main at the site; and

WHEREAS, accordingly, DEP requested a survey reflecting the distance between the proposed building and the existing sewers and water mains as well as the width of the mapped street of 128th Drive between Brookville Boulevard and Hook Creek Boulevard; and stated that it requires a minimum 31-ft. corridor in the bed of 128th Drive between Brookville Boulevard and Hook Creek Boulevard for the future drainage plan 12-in. diameter combined sewer; and

WHEREAS, in response to DEP's request, the applicant has provided a revised plan, which reflects that a total of 31 feet will be available for the installation, maintenance, and/or reconstruction of the future 12-in. diameter combined sewer with a permanent 23-ft. wide sewer corridor in the bed of 128th Drive and an 8-ft. wide portion of the 128th Drive to the north of said corridor may be used for common internal storm and sanitary sewer connections; and

WHEREAS, by letter dated February 20, 2007, DEP states that it has reviewed the revised site plan and finds it acceptable; and

WHEREAS, by letter dated March 6, 2007, the Department of Transportation (DOT) states that it has reviewed the above application and advises the Board that the proposed construction plan does not reflect any provisions for a cul de sac/turnaround, at the dead end of 128th Drive, west of Hook Creek Boulevard which should be developed in accordance with all applicable standards; and WHEREAS, the Board notes that DOT did not indicate that it intends to include the applicant's property in its ten-year capital plan; and

WHEREAS, in response to DOT's letter, the applicant states that to provide a turnaround as requested would result in the elimination of two of the seven houses, and that 128th Drive in its current state has existed for several years without problem to the current homes in the area; and

WHEREAS, by letter dated June 14, 2007, the Fire Department (FDNY) states that it reviewed the above application and advises the Board that the site plan did not provide the requisite frontage space required by the Building Code for several of the homes and lacks the necessary information with regard to existing and proposed water mains and hydrants; FDNY recommends that 128th Drive should be built as a through street connecting Brookville Boulevard to Hook Creek Boulevard in order to provide adequate access from both directions; and

WHEREAS, in response to FDNY's letter, the applicant has proposed two 40-ft. cul de sacs, to be connected by a paved area with a width of 20 feet that will be available for emergency purposes only and no parking signs will be posted within the common driveway; and

WHEREAS, by letter dated August 14, 2007, the FDNY states that it has reviewed the applicant's proposal and advises the Board that the proposed cul de sacs with 40-ft. diameter are inadequate as the FDNY requires a diameter of 70 feet when a dead end is greater than 130 feet in length; and

WHEREAS, further the FDNY notes that, with the exception of two houses, the buildings still lack the requisite

frontage mandated by the Building Code and the proposed two "common driveways" that have widths of 20 feet would still lack adequate access should a car be illegally parked on the 20-ft. wide street; and

WHEREAS, by letter dated September 25, 2007, DOT has concurred with the FDNY that the proposed design is insufficient to accommodate the proper access to emergency vehicles; DOT will require the cul de sac to be designed pursuant to all applicable standards; and

WHEREAS, in response to the FDNY and discussions at hearing the applicant has submitted a revised site plan providing the following conditions: a portion of the road noted to be reserved for emergency use only, with a paved minimum width of 20 feet with most of the non-emergency portion including 5-ft. paved walkways on both sides; no parking signs to be posted within the common driveway; two-car parking for each dwelling; and the HOA will include a specific prohibition against parking in the common driveway; and

WHEREAS, by letter dated January 8, 2008, the FDNY states that it has reviewed the proposed site plan for the above project and offers no further objections; and

WHEREAS, by letter dated January 25, 2008, DOT states that it has reviewed the revised site plan and the FDNY Letter of No Objection and will defer to the FDNY's decision; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated August 7, 2006, acting on Department of Buildings Application Nos. 401824692, 401824709, 401824727, 401824530, 401824521, 401824718, and 401824736, is modified by the power vested in the Board by Sections 35 and 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received, January 5, 2008"—one (1) sheet and "January 15, 2008"—one(1) sheet and that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

THAT a Sewer Corridor Easement with a minimum width of 31 feet is to be provided in the bed of 128th Drive between Brookville Boulevard and Hook Creek Boulevard, with 23-ft. southern portion reserved for use by DEP and the 8-ft. northern portion be available for common private utilities and sewers, which shall be permitted to transverse the DEP corridor as needed;

THAT the lot subdivision is to be approved by the Department of Buildings;

THAT No Parking signs shall be posted within the common driveways;

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THAT the Homeowner's Association shall prohibit parking within the common driveways; 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, February 12, 2008.

64-07-A

APPLICANT – Stuart A. Klein, Esq., for Sidney Frankel, owner.

SUBJECT – Application March 12, 2007 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R6 zoning district regulations. R4-1 zoning district.

PREMISES AFFECTED – 1704 Avenue N, a/k/a 1702-04 – 1411-1421 East 17th Street, southeast corner lot at intersection of East 17th Street and Avenue N, Block 6755, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Jay Goldstein.

For Opposition: Edward McCabe and Ellen Messing.

ACTION OF THE BOARD – Appeal granted.

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 appeal requesting a Board determination that the owner of the premises has obtained the right to complete the enlargement of a single-family dwelling under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this appeal on November 20, 2007, after due notice by publication in *The City Record*, with a continued hearing on January 15, 2008, and then to decision on February 12, 2008; and

WHEREAS, the site was inspected by Chair Srinivasan and Commissioner Hinkson; and

WHEREAS, certain neighbors submitted written and oral testimony in opposition to the appeal (“the Opposition”); and

WHEREAS, the applicant states that the subject site consists of a 4,000 sq. ft. lot on the southeast corner of the intersection of Avenue N and East 17th Street in Brooklyn; and

WHEREAS, the applicant proposes to add 856 sq. ft. of floor area to the side of an existing two-story single-family home with 2,946 sq. ft. of residential floor area; and

WHEREAS, the subject site was formerly located within an R6 zoning district; and

WHEREAS, the proposed home complies with the former zoning district parameters; and

WHEREAS, however, on April 5, 2006 (hereinafter, the

“Rezoning Date”), the City Council voted to adopt the “Midwood Rezoning,” which rezoned the site to R4-1; and

WHEREAS, the home does not comply with the R4-1 district parameters as to the maximum permitted floor area; and

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

WHEREAS, the Opposition contests the validity of the permit contending that the proposed enlargement does not comply with the side yard requirements of the prior zoning; and

WHEREAS, Section 645 (b) (1) of the Charter vests the Commissioner of Buildings with "exclusive power . . . to examine and approve or disapprove plans for the construction or alteration of any building or structure . . .", and

WHEREAS, DOB has confirmed that New Building Permit No. 302067867 (hereinafter, the “Alteration Permit”) was lawfully issued to the owner by DOB on January 24, 2006, prior to the Rezoning Date; and

WHEREAS, thus, the Board finds that the permits were validly issued by DOB to the owner of the subject premises and were in effect until the Rezoning Date; and

WHEREAS, assuming that valid permits had been issued and that work proceeded under them, the Board notes that a common law vested right to continue construction generally exists where: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, the applicant cites to Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10, 15 (2d Dept. 1976) for the proposition that where a restrictive amendment to a zoning ordinance is enacted, the owner’s rights under the prior ordinance are deemed vested “and will not be disturbed where enforcement [of new zoning requirements] would cause ‘serious loss’ to the owner,” and “where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance;” and

WHEREAS, however, notwithstanding this general framework, the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) found that “there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess ‘a vested right.’ Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action;” and

WHEREAS, as to substantial construction, the applicant states that before the Rezoning Date, the owner had completed site preparation, excavation, and poured the foundations; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: concrete pour tickets, cancelled checks, and accounting summaries; and

WHEREAS, the Board concludes that, based upon a comparison of the type and amount of work completed in the instant case with the type and amount of work found by New York State courts to support a positive vesting determination, a

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significant amount of work was performed at the site prior to the rezoning; and

WHEREAS, the Board also notes that the site preparation, excavation and foundation work at the site indisputably occurred prior to the Rezoning Date; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed and the supporting documentation and agrees that it establishes that significant progress was made prior to the Rezoning Date, and that said work was substantial enough to meet the guideposts established by case law; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 *et seq.*, soft costs and irrevocable financial commitments can be considered in an application under the common law; accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant states that prior to the Rezoning Date, the owner expended \$55,096, out of approximately \$301,000 budgeted for the entire enlargement; and

WHEREAS, as proof of the expenditures, the applicant has submitted cancelled checks, and accounting reports; and

WHEREAS, thus, based upon the applicant's representation as to the total project cost, the Board concludes that the actual construction costs for the proposed enlargement, both soft and hard, approximate \$301,000; and

WHEREAS, the Board considers the amount of expenditures significant, both in and of itself for a project of this size, and when compared against the total development costs; and

WHEREAS, again, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as to serious loss, such a determination may be based in part upon a showing that certain of the expenditures could not be recouped under the new zoning; and

WHEREAS, the applicant contends that the loss of the \$55,096 associated with pre-Rezoning Date project costs that would result if this appeal were denied is significant; and

WHEREAS, the inability to construct the proposed enlargement would require the owner to re-design the home; and

WHEREAS, the applicant represents that a complying home would have a maximum floor area of 3,000 sq. ft., due to the R4-1 zoning district's floor area limitation; and

WHEREAS, the Board agrees that the need to redesign, the limitations of any complying construction, and the \$55,096 of actual expenditures and outstanding fees that could not be recouped constitute, in the aggregate, a serious economic loss, and that the supporting data submitted by the applicant supports this conclusion; and

WHEREAS, at hearing, the Opposition has argued that the subject application should be denied because work was performed by the owner in violation of an outstanding stop work order issued on September 20, 2006 by the Department of Buildings; and

WHEREAS, the Board observes that it can only

consider representations of work performed and expenditures or irrevocable commitments made before the Rezoning Date in a determination as to whether the owner has a common law vested right to complete construction under the Prior Zoning; and

WHEREAS, work performed or expenditures made after the Rezoning Date in contravention of a stop work order were therefore not considered; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed, the expenditures made, the serious loss projected, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction had accrued to the owner of the premises as of the Rezoning Date; and

WHEREAS, the Opposition has argued that work was performed that failed to conform to the plans for the proposed building; and

WHEREAS, a Notice of Violation issued by the Department of Buildings on July 7, 2006 found that the attic level of the subject building had increased by ten feet over the height approved by the Alteration Permit; and

WHEREAS, a reinspection by the Department of Buildings on January 9, 2008 confirmed the continued non-conformity of the attic height with the approved plans; and

WHEREAS, under ZR § 11-31(b), the right to vest a building permit issued before the date of a rezoning does not apply to modifications made after the Rezoning Date which create a new non-compliance or increase the degree of non-compliance with the new zoning; and

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a reinstatement of DOB Permit No. 302067867, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy in conformance with DOB Permit No. 302067867, is granted for 18 months from the date of this grant, *on condition that*: DOB must confirm that the as built conditions conform to the requirements of ZR § 11-31.

Adopted by the Board of Standards and Appeals, February 12, 2008.

162-06-A

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

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

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

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to March 18,

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2008, at 10 A.M., for an adjourned hearing.

261-07-A

APPLICANT – Krygztot Rostek for Belvedere III LLC, owner.

SUBJECT – Application November 9, 2007 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R6 (M1-2) zoning district. R6B Zoning District.

PREMISES AFFECTED – 135 North 9th Street, north side 125’ from east corner of Berry Street, Block 2304, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Krygztot Rostek.

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 March 18, 2008, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director

Adjourned: A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, FEBRUARY 12, 2008
1:30 P.M.**

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

ZONING CALENDAR

121-07-BZ

CEQR #07-BSA-086R

APPLICANT – Juan D. Reyes, III, for 400 Victory Boulevard Trust, owner.

SUBJECT – Application May 11, 2007 – Variance (§72-21) to permit the legalization of a Physical Culture Establishment on the first and second floors of an existing nonconforming warehouse building. The proposal is contrary to §22-00. The Premises is located in an R3-2 zoning district within the Special Hillside Preservation District.

PREMISES AFFECTED – 400 Victory Boulevard, between Austin Place and Cobra Avenue, Block 579, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Juan D. Reyes, III.

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 April 12, 2007, acting on Department of Buildings Application No. 500903533, reads in pertinent part:

“Proposed use of second and third floors of existing non-complying building use group 16 for a Physical Culture or Health Establishments . . . within a R3-2 (HS) zoning district 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 § 72-21, to permit, within an R3-2 zoning district within the Special Hillside Preservation District (HS) the legalization of a physical culture establishment (PCE) in a former warehouse building, contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on October 16, 2007, after due notice by publication in the *City Record*, with continued hearings on December 4, 2007 and January 15, 2008, and then to decision on February 12, 2008; and

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

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Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Staten Island, recommends disapproval of the application; and

WHEREAS, City Council Member Michael E. McMahon recommends disapproval of the application, citing concerns that the PCE has operated illegally at the site since January 2007; and

WHEREAS, the site is located on the east side of Victory Boulevard, between Cebra Avenue and Austin Place, with 138 feet of frontage on Victory Boulevard and 77 feet of frontage on Austin Place; and

WHEREAS, the subject site has a total lot area of approximately 12,356 sq. ft.; and

WHEREAS, the site is occupied by a two-story and basement building designed as a factory building, with 14,790 sq. ft. of floor area; and

WHEREAS, the PCE occupies 9,860 sq. ft. of floor area on the second and third floors and is operated as Dolphin Fitness; and

WHEREAS, the PCE has been in operation at the site since January 2007; and

WHEREAS, the applicant represents that the warehouse building was built in approximately 1910, and served as a furniture warehouse until Fall 2005; and

WHEREAS, the building is occupied with several commercial uses (Use Group 6) on the lower level and by the subject PCE on the second and third floors; and

WHEREAS, at hearing, the Board asked the applicant to clarify the legal status of the commercial use on the lower level; and

WHEREAS, the applicant responded that there has been no discontinuance of the non-conforming use on the lower level and that these uses are legal; and

WHEREAS, in support of this, the applicant submitted permits issued by DOB; and

WHEREAS, accordingly, only the proposed legalization of the PCE use on the second and third floors is the subject of the application; and

WHEREAS, the applicant now seeks a variance to legalize the operation of the PCE because the special permit for a PCE is not available in the subject zoning district; and

WHEREAS, the building will not be enlarged or otherwise altered as a part of this proposal; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the existing building is obsolete; (2) the history of use at the site; and (3) the presence of an electrical substation adjacent to the site; and

WHEREAS, as to the obsolescence of the building, the applicant states that the building was constructed in 1910 and designed to accommodate a furniture warehouse; and

WHEREAS, specifically, the characteristics of the building that the applicant asserts are not compatible with conforming residential use include: (1) the existing spacing of the structural columns every several feet; (2) insufficient fenestration; and (3) a low ceiling height; and

WHEREAS, as to the presence of the structural columns,

the applicant states that the arrangement of the columns inhibits the efficient use of the floor plates for residential use because they break up the space in a way that is not compatible with a standard multiple dwelling layout; and

WHEREAS, in support of this assertion, the applicant submitted floor plans for residential use, which reflected that, due to the columns and fenestration, apartment layout would be inefficient and there would be a considerable amount of unusable space; and

WHEREAS, specifically, the applicant represents that the existing conditions would result in fewer apartments of larger size which would not provide as favorable a return as more smaller apartments; and

WHEREAS, as to the insufficient fenestration, the applicant states that, because the building was not built for residential use, it does not have the amount of windows that would be required or desired for residential occupancy; and

WHEREAS, further, the applicant provided estimated costs for the installation of new windows, which reflect that it would be cost prohibitive and would potentially compromise the building's structure; and

WHEREAS, as to the low ceiling height, the applicant represents that after the installation of necessary duct work, the ceiling height would be reduced to approximately eight feet; and

WHEREAS, as to the history of use at the site, the applicant represents that there has been a continuation of non-conforming use at the site and that another non-conforming use, such as a Use Group 6 use would be permitted as of right; and

WHEREAS, as to the electrical substation, the applicant represents that the presence of an electrical substation, and certain associated environmental conditions, on an adjacent lot compromises the marketability of the site for a conforming use; and

WHEREAS, the Board notes that the substation is not incompatible with all residential development; and

WHEREAS, the applicant represents that the owner has engaged in a number of unsuccessful marketing efforts to rent the space, but that it has been unable to fully lease the space since the departure of the furniture warehouse business; and

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

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

WHEREAS, the applicant initially submitted a feasibility study analyzing (1) an industrial use and (2) a residential rental use; and

WHEREAS, the applicant concluded that neither scenario resulted in a reasonable rate of return due to the inability to market the space for either of these uses and the inability to compensate for the costs of converting the building to

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conforming use; and

WHEREAS, at hearing, the Board directed the applicant to eliminate any analysis of an industrial use since that use is no longer present at the site and it is not realistic that such use would return; and

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

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

WHEREAS, specifically, the applicant states that there will not be any change to the exterior of the building, which has existed at the site since 1910; and

WHEREAS, the applicant represents that the surrounding area is characterized by one- and two-family homes; within 400-ft. of the site is a seven-story residential building on Austin Place and there is townhouse development on Clark Lane; and

WHEREAS, the applicant represents that several of the residential buildings on Cebra Avenue are occupied by ground floor retail use; and

WHEREAS, at hearing, the Board asked the applicant to analyze the parking demand and to clarify whether the 12 parking spaces onsite would be sufficient; and

WHEREAS, in response, the applicant stated that the peak evening hour occupancy of the PCE would be approximately 30 people and that ten of those would come by car; and

WHEREAS, the applicant concluded that if any visitors arriving by car could not be accommodated by the 12 parking spaces in the onsite lot, they would be able to find parking on the street nearby; and

WHEREAS, the applicant provided an analysis of the available parking and a list of the addresses of all members, which reflects that a considerable number live within walking distance of the site; and

WHEREAS, additionally, the Board directed the applicant to eliminate any signage that is not in compliance with C1 zoning district regulations; and

WHEREAS, in response, the applicant provided a revised sign analysis and photographs that reflect that the signage complies; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the pre-existing unique physical conditions cited above; and

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

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

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

WHEREAS, the Board notes that the PCE has been in operation since January 1, 2007, without Board approval; and

WHEREAS, accordingly, the Board has determined that the term of this grant shall be reduced for the period of time, between January 1, 2007 and the date of this grant, when the PCE operated illegally; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA086R, and dated April 2, 2007; and

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R3-2 zoning district within the Special Hillside Preservation District the legalization of a Physical Culture Establishment, contrary to ZR § 22-00, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 29, 2007"- (1) sheet and "Received February 8, 2008"- (3) sheets; and *on further condition*:

THAT there shall be no change in ownership or

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operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the term of this grant shall be limited to ten years from the date it began operation, and shall expire on January 1, 2017, subject to further renewal;

THAT, the hours of the physical culture establishment shall be limited to 5:00 a.m. until 12:00 a.m., daily;

THAT all signage at the site shall comply with C1 zoning district regulations;

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

THAT a new certificate of occupancy be obtained within six months from the date of this grant, on August 12, 2008;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, February 12, 2008.

124-07-BZ

CEQR #07-BSA-088M

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

SUBJECT – Application May 16, 2007 – Under (§72-21) to allow UG 6 (eating and drinking) on the first floor and cellar of an existing seven-story building, contrary to use regulations (§42-14(d)(2)(b). M1-5B district.

PREMISES AFFECTED – 521 Broome Street, between Broome and Watts Streets, midblock between Thompson Street and Sixth Avenue, Block 476, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – 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 April 17, 2007 acting on Department

of Buildings Application No. 104671954, reads in pertinent part:

“Proposed commercial use (use group 6) below the level of the second story in an M1-5B zoning district is not permitted pursuant to ZR 42-14(d)(2)(b) of the Zoning Resolution”; and

WHEREAS, this is an application under ZR § 72-21, to permit within an M1-5B zoning district, the conversion of the first floor and cellar of an existing seven-story building to a Use Group 6 (eating and drinking establishment) use, contrary to ZR § 42-14; and

WHEREAS, a public hearing was held on this application on September 25, 2007, after due notice by publication in the *City Record*, with continued hearings on December 4, 2007 and January 15, 2008, and then to decision on February 12, 2008; and

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

WHEREAS, Community Board 2, Manhattan, does not oppose approval of the application; and

WHEREAS, Council Member Christine Quinn has recommended approval of the application; and

WHEREAS, the subject premises is an irregularly-shaped through lot fronting on Broome Street and Watts Street located mid-block between Thompson Street and the intersection of Sixth Avenue and Sullivan Street; and

WHEREAS, the site has a lot area of approximately 2,400 sq. ft.; and

WHEREAS, the lot has a depth of approximately 60 feet, with a width of 40 feet on Broome Street and approximately 38 feet on Watts Street; and

WHEREAS, the site is currently occupied with a seven-story mixed-use building; and

WHEREAS, the applicant proposes to use the first floor for restaurant use and a portion of the cellar for accessory restaurant use; and

WHEREAS, six upper floors are occupied by Joint Living Work Quarters for Artists (JLWQA) (UG 17D) and one market rate residential unit; the first floor is vacant; and the cellar is occupied by storage (UG 17) accessory to the JLWQA use; and

WHEREAS, the uses on the six upper floors will not change and are not included in the proposal; and

WHEREAS, the site is the subject of two prior Board actions, under BSA Cal. Nos. 590-91-ALC and 461-88-ALC allowing the exclusion of 14,400 sq. ft. on the second through seventh floors from the payment of the conversion contribution required by provisions of the Relocation Incentive Program; and

WHEREAS, the Board notes that a Department of City Planning special permit is available for the requested use change and, at hearing, asked the applicant to explain why this special permit had not been sought; and

WHEREAS, the applicant states that the filing of a Department of City Planning special permit application was rejected because of the financial hardship that would be

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imposed by the six-month marketing effort required for its eligibility, when coupled with the losses already incurred due to the site's vacancy since December 2006; and

WHEREAS, because the proposed UG 6 use is not permitted below the second floor in the subject M1-5B zoning district, the requested waivers are necessary; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: (1) the lot's shallow depth and narrow building frontages; (2) the obsolescence of the existing building for manufacturing use; and (3) parking regulations and traffic conditions that impede loading and unloading; and

WHEREAS, as to the depth of the lot, the applicant represents that the lot's shallow depth coupled with its modest frontages results in a usable floor plate of approximately 1,900 sq. ft. that is inefficient for conforming uses, such as warehouses and wholesale distributors; and

WHEREAS, as to the uniqueness of this condition, the applicant represents that the site is among the smallest lots within a 400 ft. radius of the site, as evidenced by a submitted radius diagram; and

WHEREAS, at hearing, the Board questioned whether the size of the lot is unique, as the applicant had identified 29 small sites within the radius; and

WHEREAS, a response by the applicant indicated that of 85 lots within the radius, only eight were found to be smaller than the subject site, and none of these contained a conforming manufacturing use; and

WHEREAS, at hearing, the Board asked the applicant to clarify which as-of-right uses could occupy the ground floor of the subject site; and

WHEREAS, additionally, the applicant provided a survey of all ground floor uses within a 400-foot radius which showed that only four sites were occupied by conforming ground floor uses; and

WHEREAS, however, the Board observes that each of these four sites have lot areas significantly exceeding that of the subject site, averaging 8,188 sq. ft. and

WHEREAS, the Board agrees that while other conforming uses may exist within the radius, these uses are small in number and are not found on lots with dimensions comparable to the subject site; and

WHEREAS, as to the obsolescence of the building for a conforming use, the applicant cites to the following limitations: (1) the size of the elevator; (2) the limits on access to the building; and (3) the absence of a loading dock and of space to install one; and

WHEREAS, the applicant states that the small size of the existing elevator in the building would make the transfers of product required for manufacturing uses impracticable between the cellar and ground floors; and

WHEREAS, the applicant further states that street access to the building is limited to two pedestrian-sized doors on each street frontage, making it difficult to move goods into and out of the premises; and

WHEREAS, as to the lack of a loading dock, the

applicant represents that there is currently none and that installing a loading dock on either Broome Street or Watts Street would cause trucks to block the sidewalk area in front of the building, as the building is built to the lot lines; and

WHEREAS, the applicant represents that the small elevator, limited building access and lack of a loading dock combine to make it difficult to receive and transfer bulk shipments and to provide adequate access to the building for a conforming use based on these inefficiencies; and

WHEREAS, the applicant notes that although the obsolescence affects the entire building, the second through sixth floors will be maintained as JLWQA and the applicant is only seeking relief for the cellar level and ground floor; and

WHEREAS, the Board agrees that the unique physical conditions cited above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing the following scenarios, all of which include the existing JLWQA tenants on the second through sixth floors and a market rate unit on the seventh floor: (1) an as of right warehouse/storage use on the ground floor, (2) an as of right business service establishment on the ground floor, and (3) the proposed ground floor and cellar use; and

WHEREAS, the applicant asserts that the two as of right scenarios would result in a negative rate of return and that the proposed use is the minimum necessary to achieve a reasonable return; and

WHEREAS, the Board asked the applicant whether other conforming uses would be economically feasible on the subject site; and

WHEREAS, the applicant stated that among conforming uses, even business services (Use Groups 7-9), use could not generate a reasonable return at the subject site; and

WHEREAS, the applicant further stated that there were no business service uses located within the 400-foot radius on lots with lot area of less than 2,500 sq. ft., and further that there are a statistically insignificant number of such businesses located on similarly sized lots within New York City; and

WHEREAS, the Board agrees that business services would not be feasible on the site given its small size; and

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

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

WHEREAS, the applicant notes that many of the buildings in the immediate vicinity are used for Use Group 6 retail purposes on the first floor with residential or loft space above; and

WHEREAS, specifically, the applicant represents that more than half the ground floor uses of the 85 buildings within 400 ft. of the subject site are Use Group 6 retail establishments,

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despite being within the M1-5A or M1-5B zoning district, while 34 lots have residential uses on the ground floor; and

WHEREAS, the applicant further represents that the majority of ground floor uses on the same block as the subject site are commercial, and that the proposed use for a restaurant will not alter the essential character of the neighborhood; and

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

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

WHEREAS, the applicant represents that the proposed represents the minimum variance needed to allow for a reasonable and productive use of the site; and

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

WHEREAS, the applicant cites Board decisions BSA Cal. No. 58-06-BZ, BSA Cal. No. 294-00-BZ, BSA Cal. No. 185-03-BZ and BSA Cal. No. 258-03-BZ which are said to provide "similar circumstances to the instant application;" and

WHEREAS, the Board declines to accept that the arguments and rationales in these cases support a claim of hardship in the instant case, because the facts are distinguishable from those before the Board in this case; and

WHEREAS, further, while cases with similar facts can be expected to have similar outcomes, New York court decisions make clear that the Board is free to deviate from past decisions in which the facts dictate a different outcome (see Matter of Field Delivery Serv., 66 N.Y.2d 516, 518-19 (1985); 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 Section 617.2 of 6NYCRR.

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. 07BSA088M, dated August 23, 2007; and

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

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

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

environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, 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, to permit within an M1-5B zoning district, the conversion of the first floor and cellar of an existing seven-story building to a Use Group 6 (restaurant) use, contrary to ZR § 42-14; *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 August 23, 2007"– three (3) sheets; and *on further condition*:

THAT the internal floor layouts on each floor 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) 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, February 12, 2008.

233-07-BZ

CEQR #08-BSA-026M

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for TIAA-CREF, owner; Pure 86th Street Incorporated, lessee. SUBJECT – Application October 11, 2007 – Special Permit (§73-36) to allow a physical culture establishment on the first floor, cellar, sub-cellar 1 and sub-cellar 2 in an existing 35-story mixed-use building. The proposal is contrary to section 32-10. C2-8A zoning district.

PREMISES AFFECTED – 203 East 86th Street, northeast corner of the intersection of 86th Street and Third Avenue, Block 1532, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Adam W. Rothkrug.

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 January 8, 2008, acting on Department of Buildings Application No. 104887650, reads in pertinent part:

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“Proposed Physical Culture Establishment is not permitted as-of-right in C2-8A zoning district. This use is contrary to Section 32-10 of the Zoning Resolution and requires a special permit from the Board of Standards and Appeals under Section 73-36 of the Zoning Resolution.”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C2-8A zoning district, the establishment of a physical culture establishment (PCE) on portions of the first floor, cellar, sub-cellar one, and sub-cellar two of an existing 35-story mixed-use commercial/residential building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 29, 2008, after due notice by publication in *The City Record*, and then to decision on February 12, 2008; and

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

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

WHEREAS, the subject site is located on the northeast corner of Third Avenue and East 86th Street; and

WHEREAS, the site is occupied by a 35-story mixed-use commercial/residential building; and

WHEREAS, the PCE will occupy a total of approximately 872 sq. ft. of floor area on the first floor and 21,283 sq. ft. of floor space on the cellar levels; and

WHEREAS, the PCE will be operated as a Pure yoga studio; and

WHEREAS, the applicant represents that the services at the PCE will provide facilities for physical exercise, with a focus on yoga; and

WHEREAS, the hours of operation will be: Monday through Thursday, 5:30 a.m. to 11:00 p.m.; Friday, 5:30 a.m. to 10:00 p.m.; and Saturday and Sunday, 7:00 a.m. to 9:00 p.m.; and

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

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

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

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

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

WHEREAS, the project is classified as an Unlisted action

pursuant to 6 NYCRR Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 08BSA026M, dated November 30, 2007; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C2-8A zoning district, the establishment of a physical culture establishment on portions of the first floor, cellar, sub-cellar one, and sub-cellar two of an existing 35-story mixed-use commercial/residential building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received October 11, 2007 2008”- (1) sheet and “Received February 8, 2008”- (6) sheets; and *on further condition*:

THAT the term of this grant shall expire on February 12, 2018;

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

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

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

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

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

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

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

THAT the Department of Buildings must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of

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

Adopted by the Board of Standards and Appeals,
February 12, 2008.

236-07-BZ

CEQR #08-BSA-027K

APPLICANT – Jay A. Segal, Esq., for Hope Street Ventures, LLC, owner.

SUBJECT – Application October 17, 2007 – Special Permit (§73-46) to allow a waiver of parking requirements for a residential conversion of an existing building. 46 spaces are required; 11 spaces are proposed. M1-2/R6A (MX-8) district.

PREMISES AFFECTED – 53-65 Hope Street, north side of Hope Street between Havemeyer Street and Marcy Avenue, Block 2369, Lot 38, 40, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Melaney McMornoy.

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 Superintendent, dated October 7, 2007, acting on Department of Buildings Application No. 302307457, reads in pertinent part:

“Per ZR 25-23, provide 46 parking spaces in conjunction with proposed residential conversion”;
and

WHEREAS, this is an application under ZR §§ 73-46 and 73-03, to permit on a site within an M1-2/R6A (MX-8) zoning district, a reduction in the required number of accessory parking spaces for a proposed residential conversion of an existing building from 46 to 11, contrary to ZR § 25-23; and

WHEREAS, a public hearing was held on this application on January 15, 2008, after due notice by publication in *The City Record*, and then to decision on February 12, 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 1, Brooklyn, recommends disapproval of this application because the residential conversion does not include affordable housing units; and

WHEREAS, the subject site is located on the south side of Hope Street, between Havemeyer Street and Marcy Avenue, and has a lot area of 26,228 sq. ft.; and

WHEREAS, the subject site is located within an M1-2/R6A (MX-8) zoning district; and

WHEREAS, the site comprises three lots; Lot 40 is currently occupied by a 102,691 sq. ft. six-story commercial building and Lots 38 and 47 are two vacant lots that adjoin Lot 40; and

WHEREAS, the applicant proposes to convert the existing building to 92 dwelling units; and

WHEREAS, the applicant proposes to provide 11 parking spaces onsite, to be located on 5,889 sq. ft. of lot area on Lots 38 and 47; and

WHEREAS, the applicant represents that the development and use of the site, other than the proposed parking, conforms with all zoning district regulations; and

WHEREAS, accordingly, the Board’s review was limited to the request for a parking reduction from 46 to 11 spaces, pursuant to the special permit; and

WHEREAS, the Board notes that the conversion of the building must be approved by DOB for compliance with all zoning district regulations; and

WHEREAS, pursuant to ZR § 73-46, the Board may, in the subject zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required for the dwelling units created by a residential conversion under the applicable ZR provision, and

WHEREAS, the total number of required parking spaces at the site for the proposed use is 46; and

WHEREAS, the applicant represents that only 11 parking spaces can be accommodated onsite; and

WHEREAS, the special permit allows for a waiver of all or part of the required parking, provided the Board makes the required findings; and

WHEREAS, ZR § 73-46(a) requires the Board to find that there is no practical possibility of providing the required number of parking spaces on the same zoning lot because of insufficient open space and the prohibitive cost of structural changes necessary to provide the required spaces within the building; and

WHEREAS, the applicant represents that 46 unattended parking spaces would require a minimum of 13,800 sq. ft., and that there is only 5,889 sq. ft. of open space on Lots 38 and 47; and

WHEREAS, the applicant notes that the building was constructed in 1907 and that a 1928 addition resulted in short deck spans and in cellar columns which are spaced at 16’-8” intervals; and

WHEREAS, due to the insufficiency of open space to accommodate parking, the applicant analyzed two schemes for providing the required spaces within the building; and

WHEREAS, the first scheme provides for all of the parking in the cellar; and

WHEREAS, the applicant submitted drawings which reflect that the configuration of the existing columns in the cellar cannot accommodate more than one parking space between columns and creates narrow drive lanes which would further restrict the number of spaces that can be accommodated; and

WHEREAS, the applicant represents that under this first scheme, the costs associated with a structural

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reconfiguration that would provide the required spaces within the cellar of the building would exceed \$9.7 million; and

WHEREAS, the applicant represents that the removal of 24 columns and the shifting of column loads to new reinforced ceiling beams below the level of the first floor would be necessary to redesign the cellar to accommodate all of the required parking there; and

WHEREAS, the applicant represents that this scheme would require significant excavation and hydraulics to accommodate the new structural supports, as well as additional cribbing and scaffolding to avoid building collapse; and

WHEREAS, further, the applicant states that accommodating the parking spaces in the cellar level would also require the relocation of mechanical spaces to other areas of the building, thereby reducing the building's marketable floor area and would require the installation of multi-hour separations for floor, ceiling and wall assemblies, which would not otherwise be necessary; and

WHEREAS, the second scheme provides for all of the required parking on the cellar and first floors, to be accessed through ramps within the structure; and

WHEREAS, the applicant represents that the alternate scheme is highly inefficient due to the noted tight column spacing of the building and the need to install two parking ramps within the structure; and

WHEREAS, while this scheme aims to avoid the costs associated with column removal and replacement, the applicant represents that the expense of the structural requirements would exceed \$1.2 million and the consequential space needs would also result in the loss of 12 dwelling units; and

WHEREAS, the applicant represents that this scheme would provide no more than 28 spaces out of the 40 spaces which would be required for the 80 remaining dwelling units; and

WHEREAS, ZR § 73-46(b) requires the Board to determine that there is no practical possibility of providing the required number of parking spaces on a site located within 1,200 feet of the nearest boundary of the zoning lot; and

WHEREAS, according to the standard calculation set forth in the Zoning Resolution, at least 10,500 sq. ft. of lot area would be required to accommodate the 35 parking spaces that cannot be provided on-site; and

WHEREAS, the applicant submitted a survey of 17 vacant parcels within 1,200 feet of the site which have a lot area greater than 3,500 sq. ft.; and

WHEREAS, the applicant states that 14 of these sites were found to be unsuitable because they were either occupied by ongoing businesses, used for accessory parking by schools or churches, are recently developed or are under development, or are inaccessible; and

WHEREAS, the survey identified three vacant sites that appeared to be available for off-site parking: (1) a 8,305 sq. ft. existing parking lot for 21 cars at 87-91 Havemeyer; (2) a 15,455 sq. ft. lot located at 402 Metropolitan Avenue;

and (3) a 28,691 sq. ft. lot at the corner of Keap Street and Henry Street; and

WHEREAS, the applicant represents that inquiries to the owners of these properties revealed that 402 Metropolitan Avenue was under development, while the owners of the other properties are marketing them for residential development; and

WHEREAS, however, while ZR § 73-46 permits the Board to reduce the required accessory parking, the Board must analyze the impact that such a reduction might have on the surrounding community; and

WHEREAS, the applicant asserts that the conversion of the building will not generate significant parking demand; and

WHEREAS, the applicant states that the 11 onsite spaces will be adequate to meet that demand as the prospective residents are projected to be predominately single persons and young couples who depend on public transportation to travel to work and who will be able to shop in the neighborhood due to the recent growth in local services; and

WHEREAS, further, the applicant represents that the site is served by: (1) the Bedford Avenue and Lorimer Street stations of the L subway line; (2) the Metropolitan Avenue station of the G subway line; and (3) the Marcy Avenue Station of the J, M and Z subway lines; and

WHEREAS, the Board requested the applicant to explain whether there was sufficient off-site space to accommodate parking overflow; and

WHEREAS, the applicant submitted a survey conducted between 6:30 and 8:30 p.m. on a weekday evening which reflected that 105 parking spaces were available within an 800-foot radius of the site, including 59 on-street parking spaces; and

WHEREAS, the applicant also submitted photographs depicting substantial available parking; and

WHEREAS, plans submitted by the applicant indicate that a decorative fence will screen the parking from Hope Street, and a concrete masonry wall will provide screening along the eastern and western property lines; and

WHEREAS, the applicant points out that the Landmarks Preservation Commission has noted that the building may be eligible for listing on the State and National Register of Historic Places, and is therefore considered an historic resource; and

WHEREAS, the applicant represents that allowing parking to be limited to the open areas of the lot would allow the owner to restore the building without significantly altering the exterior façade; and

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

WHEREAS, the special permit will not interfere with any public improvement projects; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the

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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 §§ 73-46 and 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 (EAS) CEQR No. 08BSA027K, dated October 22, 2007; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §§ 73-46 and 73-03, to permit on a site within an M1-2/R6A (MX-8) zoning district, a reduction in the required number of accessory parking spaces for a proposed residential conversion of an existing building from 46 to 11, contrary to ZR § 25-23; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received December 14, 2007" - ten (10) sheets and "Received January 25, 2008" - three (3) sheets; and *on further condition*:

THAT a minimum of 11 parking spaces shall be provided onsite;

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

THAT the layout and design of the onsite accessory parking lots shall be as reviewed and approved by the Department of Buildings;

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

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

THAT the Department of Buildings must ensure compliance with all of 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, February 12, 2008.

48-06-BZ

APPLICANT – Jack A. Adesso, PLLC, for 420 Morris Park Avenue, LLC, owner.

SUBJECT – Application March 17, 2006 – Zoning variance under § 72-21 to allow an eight (8) story residential building containing seventy (70) dwelling units and seventeen (17) accessory parking spaces in an M1-1 district. Proposal is contrary to use regulations (§42-00).

PREMISES AFFECTED – 420 Morris Park Avenue, southwest corner of East Tremont Avenue and Morris Park Avenue, Block 3909, Lot 61, Borough of Bronx.

COMMUNITY BOARD #6BX

APPEARANCES – None.

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 March 11, 2008, at 10 A.M., for decision, hearing closed.

74-07-BZ

APPLICANT – Friedman & Gotbaum, LLP, by Shelly S. Friedman, Esq., for Congregation Shearith Israel a/k/a Trustees of the Congregation Shearith Israel in the City of N.Y. a/k/a the Spanish and Portuguese Synagogue.

SUBJECT – Application April 2, 2007 – Variance (§ 72-21) to allow a nine (9) story residential/community facility building; the proposal is contrary to regulations for lot coverage (§ 24-11), rear yard (§ 24-36), base height, building height and setback (§ 23-633) and rear setback (§ 23-663). R8B and R10A districts.

PREMISES AFFECTED – 6-10 West 70th Street, south side of West 70th Street, west of the corner formed by the intersection of Central Park West and West 70th Street, Block 1122, Lots 36 & 37, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Shelly Friedman, Charles Platt and Jack Freeman.

For Opposition: Page Cowley, Co-Chair Land Use CB7; Norman Marcus, Alan Sugarman, Martin B. Levine, Craig Morrisoin, Jared Chaouson, Charles Disanto, George Litton, T. Prince, David Rosenberg, Naomi Usher, Bruce Simon, Jay Greer, Kate Wood, Howard Lepow, Katherine Davis.

ACTION OF THE BOARD – Laid over to April 15, 2008, at 1:30 P.M., for continued hearing.

78-07-BZ

MINUTES

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

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

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

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Sam Chera.

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 March 11, 2008, at 10 A.M., for decision, hearing closed.

730-72-BZ

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

SUBJECT – Application October 10, 2007 – Amendment to permit the operation of a Physical Culture Establishment on the first floor of the enlarged portion of an existing building.

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

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

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 March 11, 2008, at 10 A.M., for decision, hearing closed.

158-07-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for 184-20 Union Turnpike Realty, LLC, owner.

SUBJECT – Application June 11, 2007 – Variance (§72-21) to allow a one-story commercial retail building (UG 6), contrary to use regulations (§22-10). R1-2 district.

PREMISES AFFECTED – 184-20 Union Turnpike, 110' west of southwest corner of the intersection of Union Turnpike and Chevy Chase Street, Block 7248, Lot 39, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD – Laid over to March 4, 2008, at 1:30 P.M., for continued hearing.

173-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Gitty Gubitze-Rosenberg, owner.

SUBJECT – Application June 21, 2007 – 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(a)); side yard (§23-461(a)) and less than the required rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1061 East 21st Street, located on the east side of East 21st Street between Avenue I and Avenue J, Block 7585, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

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

193-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Alex Gonter and Mark Gonter, owners.

SUBJECT – Application August 7, 2007 – 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); side yard (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 3591 Bedford Avenue, eastern side of Bedford Avenue between Avenue N and O, Block 7679, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

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 March 11, 2008, at 10 A.M., for decision, hearing closed.

217-07-BZ

APPLICANT – Eric Palatnik, PC, for Clara Tarantul, owner.

SUBJECT – Application September 24, 2007 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary floor area, open space and lot coverage ((§23-141(a)); rear yard (§23-47) and side yards (§23-461) in an R3-1 zoning district.

PREMISES AFFECTED – 25 Beaumont Street, between Shore Boulevard and Hampton Avenue, Block 8728, Lot 95, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

MINUTES

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

ACTION OF THE BOARD – Laid over to March 4, 2008, at 10 A.M., for decision, hearing closed.

218-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Matthew Foglia, owner.

SUBJECT – Application September 24, 2007 – Variance (§72-21) to allow the conversion and enlargement of an existing building to office use; contrary to use regulations (§22-00). R3-2 district.

PREMISES AFFECTED – 110-11 Astoria Boulevard, located at the intersection of Astoria Boulevard and Ditmars Boulevard, Block 1679, Lot 34, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Richard Lobel, Hiram Monserrate, Jack Freeman and R. Foglia.

For Opposition: Sherryl A. Harris.

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

221-07-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP c/o Elise Wagner, Esq., for Kipper Productions, Inc., owner.

SUBJECT – Application September 27, 2007 – Variance (§72-21) to permit a music rehearsal studio on the first and second floors in a two-story vacant building. The proposal is contrary to 32-10. C1-4/R7-2 zoning districts.

PREMISES AFFECTED – 165 Lenox Avenue, west side of Lenox Avenue between West 118th and West 119th Streets, Block 1903, Lot 32, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Elise Wagner and Jack Freeman.

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

281-07-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Chaya Falah and Victor Falah, owners.

SUBJECT – Application December 12, 2007 – Special Permit (§73-622) for the enlargement of an existing single family dwelling. This application seeks to vary floor area (§23-141); side yard (§23-461) and rear yard (§23-47) in an R2X (OP) zoning district.

PREMISES AFFECTED – 1960 East 4th Street, west side of East 4th Street, between Kings Highway and Avenue S, Block 6681, Lot 263, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman and Marc Sutton.

ACTION OF THE BOARD – Laid over to March 11, 2008, at 1:30 P.M., for continued hearing.

286-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Shauwana Dill-Darby, owner.

SUBJECT – Application December 20, 2007 – Special Permit (§73-36) to allow the legalization of a Physical Culture Establishment in a one-story building. The proposal is contrary to §32-10. C8-1 district.

PREMISES AFFECTED – 129-01 Merrick Boulevard, north side of Merrick Boulevard between Zoller and Eveleth Roads, Block 12490, Lot 11, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Josh Rinesmith.

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 March 11, 2008, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: 4:40 P.M.

*CORRECTION

This resolution adopted on October 19, 2004, under Calendar No. 205-04-BZ and printed in Volume 89, Bulletin Nos. 42-43, is hereby corrected to read as follows:

205-04-BZ

CEQR #04-BSA-204R

APPLICANT - Philip L. Rampulla, for Dominick Casale, owner.

SUBJECT - Application May 18, 2004 - under Z.R. §72-21 to permit the proposed construction of a one-family dwelling located both in an R3-1 zoning district and the Special South Richmond Development District (“SRD”), which does not comply with the zoning requirements for front yard and floor area, contrary to Z.R. §§107-461 and 23-14.

PREMISES AFFECTED - 375 Tennyson Drive, southwest corner of Groton Street, Block 5317, Lot 48, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES - None.

For Applicant: Philip Rampulla.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

MINUTES

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele, Commissioner Caliendo and
Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough
Commissioner, dated May 11, 2004, acting on Department
of Buildings Application No. 500690665, reads, in pertinent
part:

“1. ZR 107-461 The proposed single family
detached dwelling located within an R3-1 Special
South Richmond District does not provide the required
front yard of 18' and 10' and is contrary to Section 107-
461 ZR.

2. ZR 23-14 The proposed single family
detached residence exceeds the Bulk requirements of
Section 23-14 ZR, Floor Area Ratio.”; and

WHEREAS a public hearing was held on this
application on September 28, 2004, after due notice by
publication in The City Record, and then to decision on
October 19, 2004; and

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

WHEREAS, Community Board No. 3, Staten Island,
recommended approval of this application; and

WHEREAS, this is an application under Z.R. §72-21,
to permit the proposed construction of a one-family dwelling
located both in an R3-1 zoning district and the Special South
Richmond Development District (“SRD”), which does not
comply with the zoning requirements for front yard and floor
area, contrary to Z.R. §§ 107-461 and 23-14; and

WHEREAS, the record indicates that the subject site is
a corner lot located at the intersection of Tennyson Drive,
Groton Street and an unnamed alley, which the applicant
states was created by a filed map when this area was a
bungalow community; and

WHEREAS, the applicant states that the following are
unique physical conditions, which create practical
difficulties in developing the subject lot in compliance with
underlying district regulations: the site is irregularly shaped,
shallow in size, and small; and

WHEREAS, the subject zoning lot has four sides but a
triangular appearance, with a width of 40 feet at its widest
point, and frontages of approximately 75 feet along
Tennyson Drive and 76 feet along the unnamed alley; and

WHEREAS, the R3-1(SRD) regulations mandate the
provision of an 18 foot front yard along Tennyson Drive, a
10 foot front yard along the unnamed alley, and one 5 foot
side yard, which the applicant states would result in a single
family dwelling with a total lot coverage of only 152.12 sq.
ft. and a total floor area of 456 sq. ft.; and

WHEREAS, the Board finds that the aforementioned
unique physical conditions, when considered in the
aggregate, create practical difficulties in developing the site
in strict compliance with the applicable zoning provisions;
and

WHEREAS, no financial feasibility study is required
for this single-family dwelling development proposal; and

WHEREAS, however, the Board finds that without the
requested waivers, the hardship inherent to the lot would
result in a residential development that would not be
habitable; and

WHEREAS, the record indicates that the bulk of the
subject proposal is consistent with the surrounding
residential buildings; and

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

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

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

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

Therefore it is Resolved that the Board of Standards
and Appeals issues a Type II determination under 6
N.Y.C.R.R. Part 617.5 and 617.13 and §§5-02(a), 5-02(b)(2)
and 6-15 of the Rules of Procedure for City Environmental
Quality Review and makes the required findings under Z.R.
§ 72-21, to permit the proposed construction of a one-family
dwelling located both in an R3-1 zoning district and the
Special South Richmond Development District (“SRD”),
which does not comply with the zoning requirements for
front yard and floor area, contrary to Z.R. §§107-461 and
23-14; on condition that all work shall substantially conform
to drawings as they apply to the objection above-noted, filed
with this application marked “Received July 24, 2004”-(4)
sheets and on further condition;

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

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

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 19, 2004.

***The resolution has been corrected in the part of the
Approved Plans, which read: “July 24, 2004...” now
reads: “July 20, 2004...”. Corrected in Bulletin No. 7
Vol. 92, dated February 21, 2008.**