
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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April 11, 2008

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CONTENTS

| | |
|-----------------------------------|---------|
| DOCKET | 209-210 |
| CALENDAR of April 15, 2008 | |
| Morning | 211 |
| Afternoon | 211-212 |

CONTENT

**MINUTES of Regular Meetings,
Tuesday, April 1, 2008**

Morning Calendar213

Affecting Calendar Numbers:

| | |
|----------------------------|--|
| 751-60-BZ | 105 New Dorp Lane, Staten Island |
| 739-76-BZ IX | 212-95 26 th Avenue, Queens |
| 9-00-BZ II | 420 15 th Avenue, Brooklyn |
| 289-06-BZ | 4025 Laconia Avenue, Bronx |
| 66-90-BZ II | 43-07 Astoria Boulevard, Queens |
| 16-92-BZ | 115 King Street, 78 Sullivan Street, Brooklyn |
| 34-99-BZ II | 1189 East 29th Street, Brooklyn |
| 85-02-BZ II | 850 East 181 st Street, Bronx |
| 370-02-BZ II | 56-14 Main Street, Queens |
| 373-02-BZ II | 56-44 Main Street, Queens |
| 2-07-A thru 5-07-A | 3212, 3214, 3216, 3218 Tiemann Avenue, Bronx |
| 138-07-A | 614 West 138 th Street, Manhattan |
| 231-07-BZY & 232-07-BZY | 87-85 & 87-87 144 th Street, Queens |
| 15-08-A | 3229 North Chestnut Drive, Bronx |
| 17-08-A | 130 Reid Avenue, Queens |
| 18-08-A | 15 Jamaica Walk, Queens |

Afternoon Calendar226

Affecting Calendar Numbers:

| | |
|-----------|---|
| 145-07-BZ | 1005 46 th Street, Brooklyn |
| 278-07-BZ | 630 West 168 th Street, Manhattan |
| 285-07-BZ | 312 Fifth Avenue, Manhattan |
| 197-05-BZ | 813/815 Broadway, Manhattan |
| 68-07-BZ | 102-48 65 th Road, Queens |
| 109-07-BZ | 33-57 59 th Street, Queens |
| 111-07-BZ | 155 Norfolk Street, Brooklyn |
| 158-07-BZ | 184-20 Union Turnpike, Queens |
| 174-07-BZ | 1925 Coney Island Avenue, Brooklyn |
| 189-07-BZ | 40-55 College Point Boulevard, Queens |
| 218-07-BZ | 110-11 Astoria Boulevard, Queens |
| 271-07-BZ | 213-219 West 23 rd Street, Manhattan |
| 11-08-BZ | 3573 Bedford Avenue, Brooklyn |
| 16-08-BZ | 2614 Avenue L, Brooklyn |
| 21-08-BZ | 1601 Bronxdale Avenue, Bronx |

DOCKET

New Case Filed Up to April 1, 2008

60-08-A

101-20 39th Avenue, Between 102nd and 103rd Streets., Block 1770, Lot(s) 22, Borough of **Queens, Community Board: 3**. Construction within mapped street, contrary to Section 35 of the General City Law.

61-08-BZ

439 86th Street, Northerly side of 86th Street 234' 21/2" feet easterly of 4th Avenue., Block 6035, Lot(s) 64, Borough of **Brooklyn, Community Board: 10**. Special Permit (73-36) to allow the operation of a physical culture establishment.

62-08-A

398 Nugent Street, Nugent Street, North of Saint George Road, Block 2284, Lot(s) 25, Borough of **Staten Island, Community Board: 2**. Construction not fronting on a legally mapped street, contrary to Section 36, Article 3 of the General City Law.

63-08-BZ

116-33 Queens Boulevard, Between 77th and 78th Avenues, Block 2268, Lot(s) 23, Borough of **Queens, Community Board: 6**. Special Permit (73-244) to legalize the existing eating, drinking with dancing establishment.

64-08-A

74 Grand Avenue, Grand Avenue between Myrtle Avenue and Park Avenue (BQE service road)., Block 1892, Lot(s) 48 & 58, Borough of **Brooklyn, Community Board: 2**. Appeal for vested rights to continue development under the prior zoning.

65-08-BZ

120-50 Springfield Boulevard, Northwest corner of 121st Avenue and Springfield Boulevard., Block 12694, Lot(s) 56, Borough of **Brooklyn, Community Board: 12**. Special Permit (73-30) to allow a non-accessory radio tower.

66-08-BZ

1497 East 21st Street, East side of East 21st Street between Avenue N and Avenue M., Block 7657, Lot(s) 12, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) for the enlargement of a single family home.

67-08-BZ

3842 Bedford Avenue, West side of Bedford Avenue., Block 6807, Lot(s) 22, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) for the enlargement of a single family home.

68-08-A

135-23 82nd Avenue, Fronts 82nd Avenue between 135th Street & 138th Street (a.k.a. Hoffman Avenue)., Block 9669, Lot(s) 30, Borough of **Queens, Community Board: 8**. Appeal for vested rights to continue the development under the prior zoning.

69-08-BZ

61-40 Mount Olivet Crescent, Northwest corner of 62nd Avenue and Mount Olivet Crescent., Block 2767, Lot(s) 1, Borough of **Queens, Community Board: 5**. Special Permit (73-30) to allow a non-accessory radio tower.

70-08-A

215 Van Name Avenue, North of the corner formed by intersection of Forest Avenue., Block 1194, Lot(s) 42, Borough of **Staten Island, Community Board: 1**. Appeal for a common-law vested right to continue the development under the prior zoning district.

71-08-A

215 Van Name Avenue, North of the corner formed by intersection of Forest Avenue., Block 1194, Lot(s) 41, Borough of **Staten Island, Community Board: 1**. Appeal for a common-law vested right to continue the development under the prior zoning district.

72-08-A

215 Van Name Avenue, North of the corner formed by intersection of Forest Avenue., Block 1194, Lot(s) 40, Borough of **Staten Island, Community Board: 1**. Appeal for a common-law vested right to continue the development under the prior zoning district.

73-08-A

345 Van Name Avenue, Northeast of the corner formed by the intersection of Van Name Avenue and Forest Avenue., Block 1198, Lot(s) 42, Borough of **Staten Island, Community Board: 1**. Appeal for a common-law vested rights to continue development under the prior zoning district.

DOCKET

74-08-A

345 Van Name Avenue, Northeast of the corner formed by the intersection of Van Name Avenue and Forest Avenue., Block 1198, Lot(s) 43, Borough of **Staten Island, Community Board: 1.** Appeal for a common-law vested rights to continue development under the prior zoning district.

75-08-A

345 Van Name Avenue, North of the corner formed by intersection of Forest Avenue., Block 1194, Lot(s) 44, Borough of **Staten Island, Community Board: 1.** Appeal for a common-law vested right to continue the development under the prior zoning district.

76-08-BZ

621 Beach 9th Street, South of the corner of Caffney Avenue., Block 1558, Lot(s) 15, Borough of **Queens, Community Board: 14.** Variance to allow legalization of the rear yard, contrary to use regulations.

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

CALENDAR

APRIL 15, 2008, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 15, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

546-70-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, River York Stratford LLC c/o Glenwood Management Corporation, owners.

SUBJECT – Application February 21, 2008 – Extension of Term (60(3)) of the MDL to permit transient parking for the unused and surplus parking spaces, not to exceed 50 cars, for a term of 15 years, located in a R10 zoning district.

PREMISES AFFECTED – 1377-1391 York Avenue, West side of York Avenue between East 73rd and East 74th Streets, Block 1458, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

590-70-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for East 85th Realty LLC c/o Glenwood Management Corporation, owners.

SUBJECT – Application February 21, 2008 – Extension of Term (60(3)) of the MDL to permit transient parking for the unused and surplus spaces not to exceed 23 cars, for a term of 15 years, located in a R10 zoning district.

PREMISES AFFECTED – 1596-1608 York Avenue East side of York Avenue, between East 84th and East 85th Streets, Block 1581, Lot 49, Borough of Manhattan.

COMMUNITY BOARD # 8M

APPEALS CALENDAR

288-07-BZY & 289-07-BZY

APPLICANT – Anthony J. Tucci, Esq., for LT and Development Corp., owner.

SUBJECT – Application December 21, 2007 – Extension of time (§11-332) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on December 2005. R3-X

PREMISES AFFECTED – 421 and 425 Burgher Avenue, bound by Burgher and Mason Avenue, Block 3361, Lots 27 and 25, Borough of Staten Island.

COMMUNITY BOARD #2SI

1-08-A thru 8-08-A

APPLICANT – Rampulla Associates Architects, for Bay Properties, owner.

SUBJECT – Application January 3, 2008 – Proposed construction of eight, one- family homes not fronting a legally mapped street contrary to Section 36 of the General City Law. R1-2 SRD, SGMD.

PREMISES AFFECTED – 65, 69, 73, 77, 83, 87, 91, 93 Giegerich Avenue, west side 154.75' to Minerva Avenue, Block 7792, Lot 242 (ten. 286), Borough of Staten Island.

COMMUNITY BOARD #3SI

APRIL 15, 2008, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, April 15, 2008, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

269-06-BZ

APPLICANT – Joseph Margolis, for Bruno Salvo, owner.

SUBJECT – Application October 4, 2006 – Variance (§72-21) to permit the conversion of 11,000 sf of vacant space into retail/commercial space. The proposal is contrary to section 22-00. R3-2 district (South Richmond Special District).

PREMISES AFFECTED – 125 Greaves Lane, between Timber Ridge drive on the east and Greaves Lane on the west, Block 4645, Lot 425, Borough of Staten Island.

COMMUNITY BOARD #3SI

171-07-BZ

APPLICANT – Sheldon Lobel, P.C., for The Michael J. Tropp 2002 Revocable Trust, owners.

SUBJECT – Application June 18, 2007 – Special Permit (§73-622) to allow the Legalization of an enlargement to a single family residence which exceeds the allowable floor area, lot coverage and less than the minimum open space (§23-141); less than the minimum required rear yard (§23-47) less than the minimum side yards (§23-461) in an R3-1 zoning district. Previous BSA Special Permit (§73-622) 173-99-BZ was dismissed for lack of prosecution on September 24, 2002.

PREMISES AFFECTED –167 Norfolk Street, located on east of Norfolk Street between Shore Boulevard and Oriental Boulevard, Block 8757, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #15BK

CALENDAR

269-07-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Seaside Enterprises, LLC, owner.

SUBJECT – Application November 26, 2007 – Special Permit (§73-125) to allow a cellar and two (2) story ambulatory diagnostic/treatment care facility (medical offices, UG 4). R3-1 district.

PREMISES AFFECTED – 378 Seaview Avenue, south side of Seaview Avenue, between Mason Avenue and Simpson Street, Block 3380, Lots 65, 68 and 70, Borough of Staten Island.

COMMUNITY BOARD #2SI

272-07-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for Amsterdam & 76th Associates, owner; Equinox 76th Street, Inc., lessee.

SUBJECT – Application November 28, 2007 – Special Permit (§73-36) to allow the proposed Physical Culture Establishment on the cellar, ground, and second floors in a mixed-use building under construction. The proposal is contrary to section 32-10. C2-7A and C4-6A districts.

PREMISES AFFECTED – 344 Amsterdam Avenue, aka 205 West 76th Street, west side of Amsterdam Avenue between West 76th and West 77th Streets, Block 1168, Lot 30, Borough of Manhattan.

COMMUNITY BOARD #7M

23-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Bokharian Communities Center, Inc., owner.

SUBJECT – Application February 1, 2008 – Variance (§72-21) to permit the construction of a community facility building (Use Group 4). The proposal is contrary to sections 24-10 and 25-30. R1-2 district.

PREMISES AFFECTED – 182-69 80th Road, located at the northwest corner of the intersection of 80th Road and Chevy Chase Street, Block 7248, Lot 44, Borough of Queens.

COMMUNITY BOARD #8Q

54-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Esther Muller, owner.

SUBJECT – Application March 12, 2008 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary floor area and open space (§23-141); rear yard (§23-47) and side yard (§23-461) in an R-2 zoning district.

PREMISES AFFECTED – 3199 Bedford Avenue, east side of Bedford Avenue, between Avenue J and K, Block 7607, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, APRIL 1, 2008
10:00 A.M.**

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

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 R3-1 and 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

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver, a reopening, an amendment to the approved plans, and an extension of term, which expired on March 13, 2006; and

WHEREAS, a public hearing was held on this application on March 4, 2008, after due notice by publication in *The City Record*, and then to decision on April 1, 2008; and

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

WHEREAS, Community Board 2, Staten Island, recommended approval of the proposal; and

WHEREAS, the site is located on the northwestern corner of New Dorp Lane and New Dorp Plaza; and

WHEREAS, the site is within a C2-1 zoning district (partially within an R3-1 district and partially within an R3X district) and is occupied with an automotive repair/gasoline service station with accessory uses; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 7, 1961, when, under the subject calendar number, the Board granted a variance permitting the construction and maintenance of an automotive service station; and

WHEREAS, subsequently, the grant has been amended and the term extended by the Board at various times; and

WHEREAS, most recently, on July 21, 1998, the grant was amended to extend the term for ten years from the expiration of the prior grant on March 23, 1996; and

WHEREAS, the applicant now seeks to extend the term of the variance, which expired on March 23, 2006; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term for a previously granted variance; and

WHEREAS, the applicant represents that a timely renewal was not sought due to an administrative oversight; and

WHEREAS, the Board notes that any extension of term would date back to the period of the prior expiration; and

WHEREAS, additionally, the applicant seeks an amendment to permit the relocation of a pump island, the addition of a pump island, and the replacement of two parking spaces with one parking space for handicapped motorists; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to the plans and extension of term are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted February 7, 1961, so that as amended this portion of the resolution shall read: “to permit the noted amendment to the plans and to extend the term for ten years from the expiration of the prior grant, to expire on March 23, 2016, *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received March 18, 2008”-(5) sheets; and *on further condition*:

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

THAT the term shall expire on March 23, 2016;

THAT the site be maintained free of debris and graffiti;

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

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

THAT a certificate of occupancy shall be obtained by April 1, 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. 51007759)

Adopted by the Board of Standards and Appeals, April 1, 2008.

MINUTES

739-76-BZ, Vol. VIII

APPLICANT – Joseph P. Morsellino, Esq., for Cord Meyer Development Company, owner; Peter Pan Games of Bayside, lessees.

SUBJECT – Application January 8, 2008 – Extension of Term of a Special Permit (§73-03) to permit the continued operation of a (UG16) amusement arcade (Peter Pan Games) in a C4-1 zoning district for a term of one year which expired on April 10, 2007 and a waiver of the rules.

PREMISES AFFECTED – 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

APPEARANCES – None.

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, and an extension of the term of the special permit which expired on April 10, 2007; and

WHEREAS, the applicant concurrently seeks (1) a one-year extension to the term of the special permit, which expired on April 10, 2007 and (2) a one-year extension to the term of the special permit, which expires on April 10, 2008; and

WHEREAS, the term of the special permit is limited to one year, therefore two one-year terms are required; and

WHEREAS, in the interest of convenience, the Board heard both applications together, but provided separate resolutions for each request; and

WHEREAS, a public hearing was held on this application on March 11, 2008, after due notice by publication in *The City Record*, and then to decision on April 1, 2008; and

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

WHEREAS, on February 8, 1977, the Board granted an application permitting, in an existing shopping center, the conversion of a retail store to an amusement arcade for a term of one year; and

WHEREAS, at the time of the initial grant, the location of the arcade was 212-65 26th Avenue; in 1997, the Board permitted the relocation of the arcade to the subject premises; and

WHEREAS, based upon the submitted evidence, the Board finds that the instant application is appropriate to grant, with 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, said resolution having been adopted on February 8, 1977, as later amended, so that, as amended, this portion of the resolution shall read: “to permit the extension of the term of the special permit for an additional one year from April 10, 2007 expiring on April 10, 2008; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on*

further condition:

THAT the term of this grant shall be for one year from the expiration of the prior grant, expiring on April 10, 2008;

THAT the premises shall be maintained free of debris and graffiti;

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

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

THAT the operation of the arcade at the subject premises shall comply with the previously approved Board plans, and all conditions from prior resolutions not specifically waived by the Board remain in effect;

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

THAT the 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. 401710430)

Adopted by the Board of Standards and Appeals, April 1, 2008.

739-76-BZ, Vol. IX

APPLICANT – Joseph P. Morsellino, Esq., for Cord Meyer Development Company, owner; Peter Pan Games of Bayside, lessees.

SUBJECT – Application January 8, 2008 – Extension of Term of a Special Permit (§73-03) to permit the continued operation of a (UG16) amusement arcade (Peter Pan Games) in a C4-1 zoning district for a term of one year which expired on April 10, 2007 and a waiver of the rules.

PREMISES AFFECTED – 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

APPEARANCES – None.

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, and an extension of the term of the special permit which expires on April 10, 2008; and

WHEREAS, the applicant concurrently seeks (1) a one-year extension to the term of the special permit, which expired on April 10, 2007 and (2) a one-year extension to the term of the special permit, which expires on April 10, 2008; and

WHEREAS, the term of the special permit is limited to one year, therefore two one-year terms are required; and

WHEREAS, in the interest of convenience, the Board heard both applications together, but provided separate resolutions for each request; and

MINUTES

WHEREAS, a public hearing was held on this application on March 11, 2008, after due notice by publication in *The City Record*, and then to decision on April 1, 2008; and

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

WHEREAS, on February 8, 1977, the Board granted an application permitting, in an existing shopping center, the conversion of a retail store to an amusement arcade for a term of one year; and

WHEREAS, at the time of the initial grant, the location of the arcade was 212-65 26th Avenue; in 1997, the Board permitted the relocation of the arcade to the subject premises; and

WHEREAS, based upon the submitted evidence, the Board finds that the instant application is appropriate to grant, with 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, said resolution having been adopted on February 8, 1977, as later amended, so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the special permit for an additional one year from April 10, 2008 expiring on April 10, 2009; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT the term of this grant shall be for one year from the expiration of the prior grant, expiring on April 10, 2009;

THAT the premises shall be maintained free of debris and graffiti;

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

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

THAT the operation of the arcade at the subject premises shall comply with the previously approved Board plans, and all conditions from prior resolutions not specifically waived by the Board remain in effect;

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

THAT the 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. 401710430)

Adopted by the Board of Standards and Appeals, April 1, 2008.

9-00-BZ, Vol. II

APPLICANT – Harold Weinberg, P.E., for Beth Jacob Teachers Seminary, owner.

SUBJECT – Application August 10, 2007 – Extension of Time/Waiver-to complete construction and obtain a certificate of occupancy of a variance permitting the erection of one additional story above an existing four story building for use of a girls Yeshiva (UG 3) and Synagogue (UG 4) located in R6 zoning district.

PREMISES ADDRESS – 4420 15th Avenue, Northwest corner of 45th Street between 44th and 45th Streets, Block 5612, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of the time to complete construction for the enlargement of an existing yeshiva and synagogue building, which expired on September 12, 2004; and

WHEREAS, a public hearing was held on this application on March 11, 2008, after due notice by publication in *The City Record*, and then to decision on April 1, 2008; and

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

WHEREAS, the subject premises is located on the northwest corner of 15th Avenue and 45th Street; and

WHEREAS, the site is occupied by a four-story yeshiva (UG 3) and synagogue building (UG 4), located partially within an R6 zoning district and partially within a C1-3(R6) zoning district; and

WHEREAS, on September 12, 2000, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to permit the enlargement of an existing yeshiva and synagogue building, which did not comply with floor area ratio, front wall height, setbacks, and sky exposure plane; and

WHEREAS, the applicant represents that the building has not been completed due to funding constraints but that the applicant is prepared to complete the building now; and

WHEREAS, the instant application seeks a three-year extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, the Board finds that a three-year extension 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 September 12, 2000, so that as amended this portion of the resolution shall read: "to grant

MINUTES

an extension of the time to complete construction for a term of three years from the expiration of this grant, to expire on April 1, 2011; *on condition:*

THAT construction be completed by April 1, 2011;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 301106032 & NB 12/85)

Adopted by the Board of Standards and Appeals, April 1, 2008.

289-06-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER – Endy Realty LLC

SUBJECT – Application October 30, 2006 – To consider dismissal for lack of prosecution – variance to allow a two-family home, contrary to bulk regulations.

PREMISES AFFECTED – 4025 Laconia Avenue, between East 228th Street and East 227th Street, Block 4874, Lot 1, Borough of Bronx.

COMMUNITY BOARD #1SI

APPEARANCES – None.

ACTION OF THE BOARD – Application dismissed.

THE VOTE TO DISMISS –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application under ZR § 11-411, to permit, on a site within an R4 zoning district, the re-establishment of a variance granted under BSA Cal. No. 136-57-BZ to permit the continued use of the building by commercial use contrary to zoning district regulations; and

WHEREAS, the variance granted under BSA Cal. No. 136-57-BZ, which permitted commercial use (Use Group 6) of the one-story building and accessory parking at the site expired on May 13, 1990; and

WHEREAS, on October 30, 2006, the application was filed, under the subject calendar number; and

WHEREAS, on December 18, 2006, Board staff issued a Notice of Objections; and

WHEREAS, on April 9, 2007, the applicant made a submission, which was not responsive to the Notice of Objections; and

WHEREAS, accordingly, on April 25, 2007, Board staff issued a second Notice of Objections requesting supplemental information from the applicant; and

WHEREAS, the Board did not receive any additional

information; and

WHEREAS, on December 21, 2007, Board staff issued a Dismissal Notice stating that if the applicant failed to fully respond to the Notice of Objections within 45 days, it would schedule a dismissal hearing; and

WHEREAS, the Board did not receive any additional information; and

WHEREAS, accordingly, the Board placed the subject case on the April 1, 2008 dismissal calendar; and

WHEREAS, on February 13, 2008, the Board sent the applicant a letter stating that the case had been placed on the April 1, 2008 dismissal calendar; and

WHEREAS, the applicant failed to appear at the April 1, 2008 hearing; and

WHEREAS, accordingly, because of the applicant’s lack of good faith prosecution of this application, it must be dismissed in its entirety.

Therefore it is Resolved that the application filed under BSA Cal. No. 289-06-BZ is hereby dismissed for lack of prosecution.

Adopted by the Board of Standards and Appeals, April 1, 2008.

66-90-BZ, Vol. II

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

APPEARANCES –

For Applicant: John Ronan.

ACTION OF THE BOARD – Laid over to May 6, 2008, at 10 A.M., for decision, hearing closed.

16-92-BZ

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

SUBJECT – Application May 18, 2007 – Pursuant to Z.R §72-01 and §72-22 to permit a waiver of the rules of practice and procedure, a re-opening, an amendment, and an extension of the term of the variance. The requested application would permit the legalization from the change in use from auto repair and warehouse to a charity auto donation facility (Use Group 16 automotive storage), container storage (Use Group 16), a woodworking and metal working company (Use Group 16) and a legalization of a 2,420 square foot mezzanine addition. The premises is located in a R5/C1-1 zoning district.

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

MINUTES

Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Sheldon Lobel, Aharon Lieberman and Phaedra Thomas.

For Opposition: Molly Rouzie, Jozsef Keinal, Adam Armstrong, Amy Helfand, Risha Gorig, John Marcidro, Michael Goodall, John Mc Gettrick and other.

ACTION OF THE BOARD – Laid over to June 17, 2008, at 10 A.M., for continued hearing.

34-99-BZ, Vol. II

APPLICANT – Rothkrug, Rothkrug & Spector, LLP for Ruach Chaim Institute, owner.

SUBJECT – Application March 14, 2008 – Extension of Time to Complete Construction of a (UG4) community use facility (Yeshiva) in an R-2 zoning district which expired on February 27, 2005.

PREMISES AFFECTED – 1189 East 29th Street, a/k/a 2901 Avenue I, North east corner of East 29th Street and Avenue L, Block 7629, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Adam W. 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 April 8, 2008, at 10 A.M., for decision, hearing closed.

85-02-BZ, Vol. II

APPLICANT – Mothiur Rahman, for Alan G. Markopoulos, owner; G H Parking, lessee.

SUBJECT – Application February 20, 2008 – Extension of Term of a previously granted variance (§72-21) for the operation of a (UG8) parking lot in an R-7 zoning district which expired on February 4, 2008.

PREMISES AFFECTED – 850 East 181st Street, south side of East 181st Street and east side of Crotona Parkway, Block 3119, Lot 16, Borough of Bronx.

COMMUNITY BOARD #16BX

APPEARANCES –

For Applicant: Mothiur Rahman.

ACTION OF THE BOARD – Laid over to May 6, 2008, at 10 A.M., for continued hearing.

370-02-BZ, Vol. II

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

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 May 6, 2008, at 10 A.M., for decision, hearing closed.

373-02-BZ, Vol. II

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

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 May 6, 2008, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

2-07-A thru 5-07-A

APPLICANT – Sheldon Lobel, P.C., for Ron Karo, owner.
SUBJECT – Application January 8, 2007 – To allow construction of four-3story 2 family located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED – 3212, 3214, 3216, 3218, Tiemann Avenue, northeast corner of Tiemann Avenue and unnamed Street, Block 4752, Lots 128, 129, 132, 133, Borough of Bronx.

COMMUNITY BOARD #12BX

MINUTES

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Appeal 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 Bronx Borough Commissioner, dated December 7, 2007, acting on Department of Buildings Application Nos. 201091736, 201091745, 201091754, and 201091763, which reads in pertinent part:

“Proposed two family dwelling is in the bed of a mapped street. Comply with Section 35 of the General City Law, refer to the Board of Standards and Appeals for an Administrative Appeal”; and

WHEREAS, a public hearing was held on this application on October 2, 2007, after due notice by publication in the *City Record*, hearings continued on October 30, 2007, January 29, 2008, February 11, 2008, and March 11, 2008, and then to decision on April 1, 2008; and

WHEREAS, this application requests permission to build four two-story, two- family homes partially in the bed of an unnamed mapped street; and

WHEREAS, by letters dated February 12, 2007 and April 16, 2007, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated March 21, 2007, the Department of Environmental Protection (DEP) states that it has reviewed the application and advises the Board that there is an Amended Drainage Plan No. 43-Q (28) dated March 30, 1967, which calls for a future 15-in. diameter combined sewer in Unnamed Street between Tiemann Avenue and Gunther Avenue and for a 15-in. diameter combined sewer in Tiemann Avenue between Unnamed Street and Burke Avenue; and

WHEREAS, therefore, DEP requests that the applicant provide a minimum 30-ft. corridor in the bed of Unnamed Street between Tiemann Avenue and Gunther Avenue for the purpose of installation, maintenance and/or reconstruction of the future 15-in. diameter combined sewer; and

WHEREAS, by letter dated May 31, 2007, the applicant has provided a revised site plan showing the distances between the mapped Unnamed Street between Tiemann Avenue and Gunther Avenue, Tiemann Avenue between Unnamed Street and Burke Avenue, and the existing water main and the proposed development; and

WHEREAS, the applicant also requests that he be allowed to amend the Drainage Plan No. 43-Q (28) dated March 30, 1967 instead of having to provide a 30-ft. corridor through the premises as requested by DEP; and

WHEREAS, by letter dated June 4, 2007, DEP reviewed the revised site plan and requires the applicant to show how the sewer connections are planned and the proposed methods of discharge of storm and sanitary flows for the subject development; and

WHEREAS, on October 17, 2007 and on March 1, 2008 the applicant submitted additional information that addresses

the issues raised by DEP regarding the proposed sewers connections and proposed storm and sanitary flow discharge for the premises; and

WHEREAS, by letter dated March 3, 2008, DEP states that it has reviewed the revised site plan and finds it acceptable; and

WHEREAS, by letter dated May 8, 2007, the Department of Transportation (DOT) states that it has reviewed the application and advised the Board that the proposed site plan does not reflect any provisions for a cul-de-sac/turnaround, at the dead end of Tiemann Avenue and that a clearly-defined curblin and a sidewalk with a minimum width of ten feet must be provided for the entire length of the proposed development adjacent to Tiemann Avenue; and

WHEREAS, the Board notes that the April 18, 2007 letter from DOT did not indicate that DOT intends to include the applicant’s property in its ten-year capital plan; and

WHEREAS, the applicant submitted a revised site plan incorporating additional information about the proposed curbs and sidewalks; and

WHEREAS, by letter dated July 18, 2007, DOT states that it has reviewed the applicant’s revised site plan and the Fire Department’s Letter of No Objection and has no further comments or objections; and

WHEREAS, the Board raised issues regarding the width of the portion of Tiemann Avenue fronting the premises and the impact development on both sides of the street might have on traffic circulation; and

WHEREAS, in response, the applicant provided a map indicating that Tiemann Avenue is established at a width 60 feet on the Final Map (property line to property line) with curb to curb width of 30 feet and a sidewalk width of 15 feet along the northern and southern sides of Wickham Avenue; and

WHEREAS, as part of the Builder Pavement Plan the applicant has proposed a curb to curb width of 34 feet and a sidewalk width of 13 feet; and

WHEREAS, the Board requested that the applicant obtain approval for the street width from the DOT; and

WHEREAS, the applicant submitted a Waiver of Improvements for the development located across Tiemann Avenue from the premises for which a Builders Pavement Plan had already been filed; the Waiver states that 13 feet is the proper curb alignment along Tiemann Avenue; and WHEREAS, based upon the above, the applicant has submitted adequate evidence to warrant this approval.

Therefore it is Resolved that the decision of the Bronx Borough Commissioner, dated December 7, 2007, acting on Department of Buildings Application Nos. 201091736, 201091745, 201091754, and 201091763, is hereby modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received March 4, 2008”-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the

MINUTES

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the lot subdivision is to be as approved by DOB;

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

THAT a Builder's Pavement Plan be filed and approved before DOB issues any permits; 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, April 1, 2008.

138-07-A

APPLICANT – New York City Department of Buildings.

OWNER: 614 NYC Partners, Incorporated.

SUBJECT – Application May 24, 2007 – Appeal seeking to revoke Certificate of Occupancy No. 104114487 that allowed the conversion of single room occupancy units (SRO) to Class A apartments without obtaining a Certificate of No Harassment from NYC Housing Preservation and Development (HPD). R8 Zoning District.

PREMISES AFFECTED – 614 West 138th Street, West 138th Street, east of Riverside Drive and west of Broadway, Block 2086, Lot 141, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: John Egnatios-Beene, Department of Buildings.

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 instant appeal comes before the Board in response to an application by the Department of Buildings (“DOB”) to revoke a certificate of occupancy (“CO”) issued to the subject premises, on the basis that it improperly approved the conversion of single room occupancy (“SRO”) units to class A apartment units; and

WHEREAS, a public hearing was held on this application on September 11, 2007 after due notice by publication in the City Record, with continued hearings on October 30, 2007, December 11, 2007, January 29, 2008 and March 11, 2008, and then to decision on April 1, 2008; and

WHEREAS, the subject premises is a four-story building in an R8 zoning district; and

WHEREAS, the subject building is located at 614 West 138th Street, Manhattan; and

WHEREAS, according to records of the New York Division of Housing and Community Renewal (“DHCR”), the building currently consists of seven Class A rent stabilized

apartments; and

WHEREAS, the legal occupancy of the building, according to a certificate of occupancy issued in 1971 (the “1971 CO”), was “one furnished room” and one apartment on the first story, and three “furnished rooms” on the second, third and fourth stories, for a total of 10 SRO dwelling units; and

WHEREAS, DOB states that § 27-217 of the Administrative Code provides that a change in use and occupancy requires a new certificate of occupancy; and

WHEREAS, DOB further states that § 27-198 of the Administrative Code provides, in part, that prior to the authorization by DOB of a conversion of any SRO units to permanent class A apartments, the applicant for such conversion must obtain a Certificate of No Harassment (“CNH”) from the New York City Department of Housing Preservation and Development (“HPD”), the issuance of which indicates that the owner did not engage in harassment of the SRO unit occupants over a certain period of time (adopted as “Local Law 19”); and

WHEREAS, under §§ 27-217 and 27-198 of the Administrative Code, a CNH would therefore be required before a new certificate of occupancy could be issued; and

WHEREAS, the DOB states that it issued a new certificate of occupancy to the subject building as a class A multiple dwelling on March 6, 2006 (“the Current CO”); and

WHEREAS, DOB later determined that the Current CO had been issued without the filing of a CNH; and

WHEREAS, DOB thus brings the instant appeal seeking to revoke the Current CO as being erroneously issued; and

WHEREAS, the appeal raises three separate but related issues: (1) whether the current CO is legally valid; (2) whether, notwithstanding the legal status of the building, there is sufficient evidence that its actual use changed to a class A multiple dwelling prior to the 1983 adoption of the Administrative Code § 27-198 regarding conversion of SRO buildings; and (3) whether the Board could find it inequitable to revoke the Current CO; and

Issuance of the Current CO

WHEREAS, DOB states that the owner of the subject building (the “Respondent”) filed five permit applications between 1997 and 2004, including applications seeking to convert SRO units to class A apartments, and had secured a CNH in connection with at least one of these applications, but failed to perform the permitted work before the lapse of the permit(s) and the expiration of the CNH; and

WHEREAS, on February 22, 2005, the Respondent filed with HPD for another CNH; and

WHEREAS, on May 17, 2005, the Respondent filed professionally certified Alteration Type 1 Application No. 104114487 “to obtain [an] Amended Certificate of Occupancy for existing conditions. No work to be performed;” attached to the application were floor plans showing the layouts of seven class A apartments; no CNH accompanied the application; and

WHEREAS, on June 15, 2005, DOB issued a temporary certificate of occupancy for the subject building, pursuant to Application No. 104114487; and

WHEREAS, in connection with Respondent’s February

MINUTES

22, 2005 filing, HPD made a finding on January 23, 2006 that there was a reasonable cause of harassment and denied the CNH; and

WHEREAS, the Respondent appealed to the Office of Administrative Trials and Hearings (“OATH”) for a decision which would allow issuance of a new certificate of occupancy legalizing the current use; the matter was calendared for a hearing for March 30, 2006; and

WHEREAS, however, notwithstanding the denial of a CNH, DOB issued the Current CO to the subject building on March 6, 2006, as a class A multiple dwelling; and

WHEREAS, at a pre-hearing meeting, it was disclosed that the Current CO had been issued and HPD stated that it therefore lacked jurisdiction to issue a CNH; the Respondent declined to pursue its appeal at OATH and the March 30, 2006 CNH hearing did not occur; and

WHEREAS, in response to an inquiry by HPD concerning the validity of the Current CO, DOB found that the “job folder” assembled in connection with Job # 104114487 did not contain a CNH; and

WHEREAS, Manhattan Borough Commissioner Christopher M. Santulli, P.E. requested production of a valid CNH from the owner on August 12, 2006; and

WHEREAS, upon receiving no response, DOB determined that the issuance of the Current CO without a CNH had been in error and that the building was legally an SRO; thus, the instant appeal was brought to revoke the Current CO; and

WHEREAS, DOB contends that the Current CO was erroneously issued because the application on which it was based included no CNH and, therefore, failed to comply with the requirements of § 27-198 of the Administrative Code regarding alterations to SRO multiple dwellings; and

WHEREAS, DOB further contends that since the permit ought not to have been issued, the remedy for the erroneous approval is revocation of the Current CO; and

Validity of the Current CO

WHEREAS, as to the validity of the Current CO, DOB argues that the cited provisions of the Administrative Code clearly prohibit it from approving building plans and issuing a permit for the conversion of an SRO multiple dwelling to a class A multiple dwelling, absent a certification by HPD that there has been no harassment of lawful occupants within the 36-month period prior to the date of a submission of an application for a certificate of no harassment; and

WHEREAS, the Respondent states, in an affidavit submitted to the Board, that Job # 104114487 was a “no work” application that disclosed in an attachment (“Schedule A”) that the existing legal use of the subject building consisted of one apartment and ten furnished rooms and that the proposed use consisted of seven class A apartments; and

WHEREAS, Respondent argues that the Code provisions apply only to a change in use, not to the legalization of an existing use proposed by Job # 104114487, and

WHEREAS, however, the Board finds that the relevant Code provisions do not distinguish between “no

work” applications and applications to perform work, and that because Job # 104114487 would result in a new certificate of occupancy, the requirement of a CNH would apply to the filing of the permit application; and

WHEREAS, it is uncontroverted that the Respondent did not file a CNH in connection with Job # 104114487; and

WHEREAS, the Respondent states that it was constrained from filing a CNH in connection with Job # 104114487 through circumstances over which it had no control; and

WHEREAS, the Respondent further states that after an application for a CNH was filed with HPD prior to its filing with DOB of Job # 104114487, the tenants of the subject building commenced a rent strike and attempted to extort a substantial sum of money in exchange for withdrawing allegedly baseless claims of harassment; and

WHEREAS, according to the Respondent, an HPD investigator visited the subject building while litigation was underway and documented harassment which then formed the basis for HPD’s denial of a CNH; and

WHEREAS, the Board finds that the Code provisions requiring submission of a CNH in connection with the legal conversion of SRO units to be unambiguous and not susceptible to interpretation or discretion in meeting their requirements; and

WHEREAS, therefore, even accepting Respondent’s facts as true, a CNH would still be required before a valid certificate of occupancy could be issued; and

WHEREAS, further, the Respondent might have obtained a CNH by pursuing its appeal to OATH, rather than ceasing its application for one subsequent to the issuance of the Current CO; and

WHEREAS, the Respondent further contends that the instant appeal should be denied because it is untimely under the Board’s Rules of Practice and Procedure; and

WHEREAS, § 1-07(b) of the Board’s Rules preclude consideration of an appeal that is filed more than thirty days from the date of a final determination by a relevant commissioner; and

WHEREAS, the Respondent contends that the date of the final determination which would serve as the basis of the appeal to be either the issuance of the Current CO on March 8, 2006, or DOB’s letter of August 17, 2006 seeking a copy of the CNH, and that either date precedes the filing of the appeal by at least nine months; and

WHEREAS, DOB, in written and oral submissions to the Board, argues that it can never be time-barred from reviewing a certificate of occupancy (see e.g., Matter of Parkview Assocs. v. City of New York, 71 N.Y.2d 274, 282 (1988) (mistake does not estop a government agency from correcting its errors) and that therefore § 1-07(b) of the Rules applies only to preclude untimely appeals to DOB determinations filed by affected parties, and

WHEREAS, at hearing, the Respondent stated that the Board’s resolution in BSA Cal. No. 353-05-BZY supports its position that DOB’s appeal is time-barred; and

WHEREAS, the Board finds that its resolution in BSA Cal. No. 353-05-BZY, a case which addressed the question

MINUTES

of whether an owner was time-barred from seeking to renew a building permit and extend the time to complete construction, is entirely irrelevant to question of whether DOB would be time-barred from bringing an appeal; and

WHEREAS, accordingly, the Board finds that the instant appeal is not time-barred; and

Conversion Prior to 1983

WHEREAS, the Respondent states that while the building may have contained SRO units at one time, the units were reconfigured to class A apartments prior to the adoption of the Administrative Code § 27-198 governing conversions of SRO buildings; and

WHEREAS, the Respondent asserts that when it was purchased in a 1996 mortgage foreclosure sale, the subject building consisted of seven vacant class A apartments, each with a private kitchen and bathroom; and

WHEREAS, the Respondent further states that it was told by the mortgagee that the building had been converted to class A apartments at least ten years before DOB issued the Current CO, and possibly as much as 25 years earlier; and

WHEREAS, the Respondent asserts that it was therefore not responsible for an illegal conversion of the former SRO units to class A apartments; and

WHEREAS, at hearing, DOB testified that, if it could be proven that the property was altered prior to the 1983 adoption of the Code provisions, despite the absence of any issued permits or a valid certificate of occupancy, legalization of this work could be allowed without subjecting the application to the Code requirements, and a CNH would not be needed as part of the job permitting process; and

WHEREAS, at hearing, the Board asked the Respondent whether it could prove that the building was converted to rent stabilized Class A dwelling units prior to 1983 and suggested potential sources of documentation such as: pre-1983 DOB drawings/permits; registration documents from DHCR; documents from the foreclosure sale indicating the status of building use; affidavits from tenants, neighbors, employees, or former managers who could fix the date of conversion from SRO units to class A apartments; and/or HPD "I-Cards" documenting inspections performed at the subject building; and

WHEREAS, in response, the Respondent submitted affidavits from two individuals who lived in the neighborhood from at least 1980, who both attested that renovations resulting in the conversion of the building were completed in 1982; and

WHEREAS, DOB argues that affidavits cannot supersede certificates of occupancy to establish the legal use of a building; and

WHEREAS, the Board agrees that the affidavits are not particularly compelling because of their lack of specificity in the circumstances surrounding the alleged conversion; and

WHEREAS, to bolster an affidavit, the Respondent produced an affiant to testify at hearing who stated that she lived across from the subject building and knew the former building owner during the early 1980's; and

WHEREAS, the neighbor testified that she recalled seeing only the apartment on the first floor; she was therefore unable to corroborate the conversion of the ten SRO units to class A apartments prior to adoption of the relevant Code provisions; and

WHEREAS, through its staff, the Board suggested four additional sources of documentation that could demonstrate that the conversion of the building to Class A apartments took place before the 1983 adoption of the Code provisions; (i) a copy of DOB alteration application ALT 907-81 which is listed by DOB as having been filed with respect to the Subject Building; (ii) Coles Cross-Reference Directory telephone listings at the building; (iii) Con Edison documentation showing separate metering or accounts at the building; and (iv) rent rolls filed with DHCR; and

WHEREAS, the Respondent was unable to submit any additional evidence that the actual use of the building changed to a class A apartment building prior to the 1983 adoption of the Code provisions; and

WHEREAS, the Board has reviewed all the evidence submitted by the Respondent prior to and during the hearing process, and is not persuaded that the actual use changed prior to adoption of § 27-198 of the Administrative Code; and

Revocation of the Current CO

WHEREAS, DOB contends that revocation is the appropriate remedy to correct the improper issuance of the Current CO; and

WHEREAS, the Respondent argues that revocation is an extreme remedy that would create an illegal occupancy; and

WHEREAS, the Respondent further argues that the illegal occupancy would enable the current rent-stabilized tenants to avoid rent payments; and

WHEREAS, at hearing, the Board asked the Respondent to submit a brief on this issue, but the Respondent declined to do so; and

WHEREAS, the Respondent also asserts that the illegal occupancy created by a revocation of the Current CO would make the building vulnerable to a vacate order; and

WHEREAS, at hearing, DOB testified that the agency would not issue a vacate order based solely on an illegal occupancy; that a vacate order would ensue only in response to a life safety condition –unlikely in this case in that DOB had signed off on the building's safety and construction inspections had not indicated any dangerous condition; and

WHEREAS, the Respondent also contends that the illegal occupancy of the building would trigger a default on mortgages covering the subject building as well as another building; and

WHEREAS, the Respondent claims that this is the case because its mortgage on the subject building contains a provision stating that it will be in default and subject to foreclosure if the occupancy of the building is contrary to law; and

WHEREAS, the Board notes that similar violations are common among New York City buildings and foreclosure for such a reason is rare, if not nonexistent; and

MINUTES

WHEREAS, to avoid the potential enumerated consequences, the Respondent has requested that the Board withhold a decision on the instant appeal pending its submission of another CNH application to HPD; and

WHEREAS, however, DOB contends that permitting the Current CO to remain in place would actually make it impossible to file a CNH application and to legalize the occupancy of the building; and

WHEREAS, DOB states that by law, HPD has no jurisdiction to process an application for a CNH for a building with a certificate of occupancy as a class A multiple dwelling and the Respondent would be unable to apply to and secure a CNH from HPD unless the 1971 CO were reinstated; and

WHEREAS, DOB cites to § 645(e) of the New York City Charter stating that “every certificate of occupancy shall, unless and until set aside, vacated or modified by the board of standards and appeals or a court of competent jurisdiction, be and remain binding and conclusive upon all agencies and officers of the city”; and

WHEREAS, DOB further notes that the procedures for the legal conversion of SRO units, set forth in §§ 27-2093 and 27-198 of the Administrative Code would therefore be inapplicable to the Subject Building if the Current CO as a class A multiple dwelling remained in place; and

WHEREAS, the Respondent further argues that revocation would be unjustified and inequitable because it has committed no wrong, and that the Board should therefore deny the instant appeal; and

WHEREAS, as an administrative agency, the Board is not empowered to grant equitable relief to the Respondent (see People ex rel. New York Tel. Co. v. Public Serv. Comm., 157 A.D. 156, 163 (3d Dep’t 1913); see also Faymor Development Co. v Board of Standards and Appeals, 45 N.Y.2d 560, 565 (1978)); and

WHEREAS, since the Board lacks the powers of a court acting in equity, it cannot fashion a remedy that ignores the clear, unambiguous requirement of a CNH established by § 27-198 of the Administrative Code, no matter how persuasive the merits; and

WHEREAS, DOB testified that the revocation of the Current CO would reinstate the preexisting certificate of occupancy; and

WHEREAS, the Board therefore rejects the contention that revocation of the Current CO would be an inequitable or excessive remedy, noting that a revocation merely restores the Respondent to the same position it had before the Current CO was issued; and

Therefore it is Resolved, that the subject appeal, inasmuch as the Board has determined both that the legal use of the premises is an SRO under Administrative Code § 27-198(a) (6), and, has determined that the record contains insufficient evidence showing that actual use of the subject building changed to Class A apartment prior to its enactment, the Board hereby grants the request by DOB to revoke a certificate of occupancy issued to the subject premises, on the basis that it improperly approved the conversion of single room occupancy (“SRO”) units to class A apartment units.

Adopted by the Board of Standards and Appeals, April 1, 2008.

231-07-BZY & 232-07-BZY

APPLICANT – Sheldon Lobel, P.C., for Hooshang Vaghari & Farhad Nobari, owners.

SUBJECT – Application October 9, 2007 – Extension of time (§11-331) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on September 10, 2007. R6 zoning district.

PREMISES AFFECTED – 87-85 & 87-87 144th Street, eastside between Hillside Avenue and 88th Avenue, Block 9689, Lots 6 & 7, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, this is an application under ZR §11-331, to renew a building permit and extend the time for the completion of the foundations of a major development under construction; and

WHEREAS, a public hearing was held on this application on February 26, 2008, after due notice by publication in *The City Record*, with a continued hearing on March 18, 2008, and then to decision on April 1, 2008; and

WHEREAS, Community Board 12, Queens, recommends disapproval of this application citing concerns about parking; and

WHEREAS, the provision of parking spaces is not within the Board’s scope of review for an application to vest a building permit; and

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

WHEREAS, the subject site is located on the two contiguous zoning lots (tentatively Lots 6 and 7, formerly known as Lot 6) located on the east side of 144th Street between Hillside Avenue and 88th Avenue, and has a combined lot area of 5,000 sq. ft.; and

WHEREAS, Lot 6 corresponds to 87-87 144th Street and Lot 7 corresponds to 87-85 144th Street; and

WHEREAS, the two lots are the result of a subdivision of a larger preexisting lot; and

WHEREAS, each zoning lot is 25 feet wide by 100 feet deep; and

WHEREAS, each zoning lot is proposed to be developed with a four-story eight-family semi-detached dwelling, for a total of 16 dwelling units (the “Proposed Development”); and

WHEREAS, on August 9, 2007, the Department of

MINUTES

Buildings issued NB Permit No. 402614701 for the building on Lot 6 (“Lot 6 Building”) and on August 16, 2007 issued NB Permit No. 402614694 for the building on Lot 7 (“Lot 7 Building”) (collectively, the “NB Permits”);

WHEREAS, when the NB Permits were issued and when construction commenced, the site was within an R6 zoning district; and

WHEREAS, the Proposed Development complies with the former R6 zoning district parameters; specifically for floor area (5,500 sq. ft. was the maximum permitted), FAR (2.2 FAR was the maximum permitted for residential buildings), side yards (no side yards were required), and parking (none was required), for each of the two respective buildings; and

WHEREAS, however, on September 10, 2007 (the “Enactment Date”), the City Council voted to adopt the Jamaica Plan rezoning amendment, which rezoned the site to R5; and

WHEREAS, because the site is now within an R5 zoning district, the Proposed Development would not comply with the new zoning provisions regarding floor area (3,125 s.f. is the maximum permitted), FAR (1.25 FAR is the maximum permitted for residential buildings), side yards (one 8’-0” side yard is required), and parking (parking for 85 percent of the units is required), for each of the two respective buildings; and

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

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

WHEREAS, a threshold issue in this case was the proper categorization of the Proposed Development; and

WHEREAS, ZR § 11-31(c) sets forth definitions for various types of development, including a “minor development” and a “major development;” and

WHEREAS, a minor development contemplates construction of one building on a single zoning lot which is non-complying under an amendment to the ZR; and

WHEREAS, a major development comprises construction of multiple non-complying buildings on contiguous zoning lots, provided that all the proposed buildings were planned as a unit as evidenced by an approved site plan showing all the buildings; and

WHEREAS, the Proposed Development contemplates construction of two buildings and the applicant has submitted a DOB approved site plan showing that the Proposed Development was planned as a unit, thereby meeting the definition of a major development; and

WHEREAS, however, the applicant initially sought to extend the time to complete the construction of a minor development; and

WHEREAS, the Board accordingly requested that the applicant revise the application to reflect that the Proposed Development is a major development; and

WHEREAS, the applicant represents that the Permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the Board has reviewed the record and notes that DOB has not expressed any concern about the validity of the Permit; thus, there is no question as to the lawfulness of the Permit in this matter; and

WHEREAS, pursuant to ZR § 11-331, a major development may be vested upon a showing that excavation was completed and substantial progress was made as to the required foundation for just one of the multiple buildings; and

WHEREAS, the applicant represents that, as of the Enactment Date, excavation was completed and substantial progress was made as to the required foundations for the building on Lot 6; and

Excavation Work

WHEREAS, more specifically, the applicant claims that work completed on Lot 6 prior to the Enactment Date includes: (1) all the excavation work; (2) all the lagging work; and (3) all the steel pile installation; and

WHEREAS, in support of this statement, the applicant has submitted the following: pile logs prepared by the project engineer; dated photographs of the site showing excavation and shoring; an affidavit from the project developer describing the completed work; dated invoices; and copies of cancelled checks; and

WHEREAS, the Board has reviewed all documentation and agrees that it establishes that the afore-mentioned excavation work was completed subsequent to the issuance of the valid permits; and

WHEREAS, based on its review of the evidence, the Board has determined that excavation was completed prior to the Enactment Date; and

Foundation Work

WHEREAS, as to substantial progress on the foundation, the applicant represents that 81 cubic yards of concrete were poured for the foundation for the Proposed Development between August 29, 2007 and the Enactment Date on September 10, 2007; and

WHEREAS, in support of the contention that 81 cubic yards of concrete were poured prior to the effective date of the rezoning, the applicant has submitted pour tickets from a

MINUTES

concrete batching company, reflecting the claimed amount of concrete pours and the dates; and

WHEREAS, the applicant claims that 116 cubic yards of concrete were required for the foundation of the Lot 6 Building and that by the Enactment Date 57 cubic yards had been poured; and

WHEREAS, in support, the applicant has submitted evidence in the form of affidavits from the owners/project managers describing the completed work, a foundation plan marked to indicate the work completed, and photographs; and

WHEREAS, in further support, the applicant has submitted a letter from the project engineer stating that 79.5 percent of the foundation work necessary for the Lot 6 Building had been completed by the Enactment Date; and

WHEREAS, the applicant has also submitted financial documents, including cancelled checks, invoices, and accounting tables, which indicate that 64 percent of the cost of completing the footings and the foundation walls had been incurred as of the Enactment Date; and

Conclusion

WHEREAS, the Board finds all of the above-mentioned submitted evidence sufficient and credible; and

WHEREAS, thus, the Board concludes that substantial progress had been made on the foundations as of the Enactment Date; and

WHEREAS, because the Board finds that excavation was complete and substantial progress had been made on the foundation, it concludes that the applicant has adequately satisfied all the requirements of ZR § 11-331.

Therefore it is Resolved that this application to renew New Building Permit Nos. 402614694 and 402614701 pursuant to ZR § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of six months from the date of this resolution, to expire on October 1, 2008.

Adopted by the Board of Standards and Appeals, April 1, 2008.

15-08-A

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Joseph Cohen, owner.

SUBJECT – Application January 15, 2008 – Proposed construction of a two story- two family dwelling not fronting a legally mapped street contrary to Article 3, General City Law Section 36. R4A zoning district.

PREMISES AFFECTED –3229 North Chestnut Drive, west side of North Chestnut Drive and North Oak Drive, Block 4604, Lot 40, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Sandy Anagnostou.

For Administration: Anthony Scaduto, Fire Department.

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 Bronx Borough Commissioner, dated December 18, 2007, acting on Department of Buildings Application No. 201125530, reads in pertinent part:

“1. The Construction of a 2 story, 2 family dwelling in an R4A Zoning District facing North Chestnut Drive, which is physically open but is not mapped street, is contrary to General City Law 36; Therefore refer to BSA for their resolution”; and

WHEREAS, a public hearing was held on this application on April 1, 2008, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated, March 20, 2008, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, accordingly, 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 Bronx Borough Commissioner, dated December 18, 2007, acting on Department of Buildings Application No. 201125530, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received January 15, 2008”-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

THAT the Department of Buildings must ensure

MINUTES

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, April 1, 2008.

17-08-A

APPLICANT – Zygmunt Staszewski, for Breezy Point Cooperative, Inc., owner; Virginia Peterson, lessee.

SUBJECT – Application January 16, 2008 – Proposed reconstruction and enlargement of an existing single family dwelling not fronting on a mapped street contrary to General City Law Section 36 and the upgrade of an existing private disposal system is contrary to the Department of Buildings policy.

PREMISES AFFECTED – 130 Reid Avenue, west side of Reid Avenue, 135’ north of Thetford Lane, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Appeal granted.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated January 9, 2008, acting on Department of Buildings Application No. 410043796, reads in pertinent part:

“For the Board of Standard & Appeals Only

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

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

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

A2- The proposed upgrade of the private disposal system is contrary to the Department of Building policy”; and

WHEREAS, a public hearing was held on this application on April 1, 2008, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated, February 8, 2008, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, accordingly, 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 Bronx Borough Commissioner, dated January 9, 2008, acting on Department of Buildings Application No.410043796, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received January 16, 2008”-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, April 1, 2008.

18-08-A

APPLICANT – Gary D. Lenhart, for The Breezy Point Cooperative, owner; Katherine & Brian Roarty, owners.

SUBJECT – Application January 18, 2008 – Proposed reconstruction and enlargement of an existing single family home not fronting a legally mapped street contrary to General City Law Section 36 and the proposed upgrade of the existing disposal system partially in the bed of a service road is contrary to Department of Buildings Policy. R4 Zoning District.

PREMISES AFFECTED – 15 Jamaica Walk, Jamaica Walk, 203.4’ south of Oceanside Avenue, Block 16350, Lot 406, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Appeal granted.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated January 10, 2008, acting on Department of Buildings Application No. 410032334, reads in pertinent part:

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

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

MINUTES

- B) Existing dwelling to be altered does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code.
- A2- The proposed upgrade of the private disposal system is partially in the bed of a service road contrary to the Department of Building policy”; and

WHEREAS, a public hearing was held on this application on April 1, 2008, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated, February 8, 2008, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, accordingly, 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 January 10, 2008, acting on Department of Buildings Application No.410032334, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received January 18, 2008”-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, April 1, 2008.

Jeffrey Mulligan, Executive Director

Adjourned: A.M.

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

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

ZONING CALENDAR

145-07-BZ

CEQR #07-BSA-094K

APPLICANT – Akerman Senterfitt/Stadtmauer Bailkin LLP, for Maimonides Research & Development, owner.

SUBJECT – Application June 4, 2007 – Variance (§72-21) to allow the enlargement of an existing building to violate lot coverage requirements (§24-11) for a proposed community facility (medical facility). R6 district.

PREMISES AFFECTED – 1005 46th Street, Northeast corner of 46th Street and 10th Avenue Block 5614, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Calvin Wong.

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 May 30, 2007, acting on Department of Buildings Application No. 301819646, reads in pertinent part:

“Proposed infill addition increases the degree of non-compliance above the first floor with regard to lot coverage and is contrary to ZR 24-11;” and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R6 zoning district, an enlargement to an existing building which does not comply with lot coverage regulations for a proposed community facility (medical facility), contrary to ZR § 24-11; and

WHEREAS, a public hearing was held on this application on February, 26, 2008, after due notice by publication in the *City Record*, and then to decision on April 1, 2008; and

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

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

WHEREAS, a local civic organization and certain neighborhood residents provided written and oral testimony in opposition to this application citing concerns with the

MINUTES

expansion of community facility uses in a residential neighborhood; and

WHEREAS, the application is brought on behalf of the Maimonides Research and Medical Foundation (“Maimonides”), a nonprofit medical facility; and

WHEREAS, the site is located on the northeast corner of 46th Street and 10th Avenue; and

WHEREAS, the site is rectangular and has a lot area of approximately 3,000 sq. ft.; and

WHEREAS, the site is occupied by a vacant four-story multiple dwelling with a central interior courtyard along the side lot line measuring approximately 25’-0” by 11’-8”;

WHEREAS, the building was built in 1920 for and occupied by residential use; and

WHEREAS, Maimonides will occupy the building as its Department of Urology (Use Group 4); and

WHEREAS, the building has a floor area of approximately 9,432 sq. ft. (3.16 FAR); and

WHEREAS, the applicant initially proposed to enlarge the building by a partial infill of the open interior courtyard to permit construction of an elevator and fire stair, which would increase the building footprint area by 299 sq. ft. and raise the lot coverage to 89 percent; and

WHEREAS, the applicant now proposes a partial infill of the open interior courtyard which increases the building footprint by 85.7 sq. ft. and its lot coverage to 82 percent (70 percent is the maximum permitted); and

WHEREAS, the existing building is non-complying as to lot coverage, with lot coverage of 79 percent; the proposed enlargement would thereby increase the degree of non-compliance by three percent; and

WHEREAS applicant represents that the proposed building will not create any new non-compliances except for lot coverage and that the building will still be below the maximum permitted FAR of 4.8; and

WHEREAS, the applicant represents that the variance request is necessitated by unique conditions of the site that create a hardship, specifically: (1) the programmatic needs of Maimonides; and (2) the constraints of the existing building; and

WHEREAS, specifically, the applicant states that the following are the programmatic needs of Maimonides which require the requested waivers: (1) the floor plates required for a functional medical facility; (2) a need to make the building handicapped-accessible; and (3) the need to consolidate and expand urology services at a location proximate to the main campus; and

WHEREAS, the applicant represents that devoting a portion of the enclosed courtyard to an elevator to create larger floorplates, improve circulation in the building and allow for handicapped-accessibility will allow it to better accommodate the health care needs of the surrounding community; and

WHEREAS, the applicant states that the proposed building will house its urology services which include inpatient admissions, outpatient surgery and ambulatory medical care services; and

WHEREAS, the applicant represents that its

Department of Urology is presently housed in three separate buildings, leading to inefficiencies in service delivery; and

WHEREAS, the applicant further represents that the Department of Urology services must remain in close proximity to the main campus because its physicians, nurses and staff will divide their workday between both facilities; and

WHEREAS, the applicant states that the proposed building is located within two blocks of Maimonides’ main campus; and

WHEREAS, the Board notes that under well-established precedents of the courts and this Board, applications for variances that are needed in order to meet the programmatic needs of educational institutions are entitled to significant deference; and

WHEREAS, the applicant represents that Maimonides is an accredited teaching hospital with more than 400 medical residents enrolled in 24 residency programs, including a residency in urology; and

WHEREAS, the Board finds that these programmatic needs are legitimate, and agrees that the enlargement is necessary to address Maimonides’ programmatic needs, given the limitations of the existing building; and

WHEREAS, the applicant represents that the building was built as a multiple dwelling approximately 90 years ago and that its services would be constrained by the building’s design, which has a single interior staircase constructed in the center that results in a useable width of only five feet at its narrowest point, and the building’s lack of an elevator; and

WHEREAS, the applicant represents that it is unable to feasibly accommodate construction of an elevator within an as-of-right building envelope; and

WHEREAS, accordingly, based upon the above, the Board finds that the limitations and inefficiencies of the existing building, when considered in conjunction with the programmatic needs of Maimonides, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since Maimonides is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

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

WHEREAS, the applicant asserts that the existing building, which will remain, is compatible with the context of the immediate area; and

WHEREAS, the applicant notes that the increase in lot coverage is limited to the infill of a portion of a central courtyard, which is not visible from the street; and

WHEREAS, the applicant has reduced the size of the elevator and relocated a proposed staircase from the courtyard to a side yard, so any potential effects of the

MINUTES

enlargement to the adjacent building would be minimal; and

WHEREAS, the applicant also notes that the only change to the building's envelope will be the infill of a courtyard and the installation of a fire stair in the side yard which is a permitted obstruction; and

WHEREAS, the applicant further notes that noise attenuation measures will comply with the Building Code; and

WHEREAS, with respect to the concerns raised by local residents as to the potential impact of the expansion of community facility uses on a residential neighborhood, the Board notes that the proposed use of the building is as of right; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of Maimonides could occur on the existing lot; and

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

WHEREAS, the applicant initially proposed infill of 299 sq. ft. per floor to accommodate both an elevator and a fire stair, and requested a variance allowing lot coverage of 89 percent; and

WHEREAS, in response to community concerns, the applicant revised its plans to relocate the fire stair to the side yard and to reduce the size of the proposed elevator, thereby reducing the proposed infill to 89.9 sq. ft. per floor and the requested lot coverage to 82 percent; and

WHEREAS, at hearing, the Board asked the applicant to explain why the proposed elevator had increased in size from the from the 60.75 sq. ft. shown in the initial submission to the 89.9 sq. ft. currently proposed; and

WHEREAS, a submission by the applicant indicates that the initial plans were in error in showing the dimensions of a passenger elevator, rather than the dimensions of a standard sized hospital elevator, which is necessarily larger to accommodate the transport of patients on stretchers or gurneys; and

WHEREAS, the applicant represents that the requested lot coverage is the minimum necessary to accommodate the projected programmatic needs; and

WHEREAS, the Board notes that the applicant has reduced the size of the enlargement so as to reduce any impact and the increase to lot coverage is minimal; and

WHEREAS, accordingly, the Board finds that the requested relief is the minimum necessary to allow Maimonides to fulfill its programmatic needs; 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 an Unlisted action pursuant to 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. 07BSA094K, dated June 4, 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, 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 R6 zoning district, an enlargement to an existing building which does not comply with lot coverage regulations for a proposed community facility (medical facility), contrary to ZR § 24-11, *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 June 4, 2007" – three (4) sheets and "Received February 1, 2008" – six (6) sheets; and *on further condition*:

THAT the lot coverage post-enlargement shall not exceed 82 percent, as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, April 1, 2008.

MINUTES

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

APPEARANCES –

For Applicant: Rachel Winard.

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 December 4, 2007, acting on Department of Buildings Application Nos. 110024385, 110024394, and 110031616 reads in pertinent part:

“Proposed height of the pylon/sign structure is not permitted as of right in an R8 zoning district and is contrary to ZR 22-342”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R8 zoning district, the construction of three 30-foot pylon signs to be located at entrances to a medical center campus which do not comply with sign height regulations, contrary to ZR § 24-342; and

WHEREAS, a public hearing was held on this application on March 4, 2008, after due notice by publication in the *City Record*, and then to decision on April 1, 2008; and

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

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

WHEREAS, the application is brought on behalf of the NY Presbyterian Hospital/ Trustees of Columbia University, as owners and operators of a nonprofit medical center (the “Medical Center”); and

WHEREAS, the Medical Center has been designated a Large Scale Community Facility Development by the New York City Planning Commission; and

WHEREAS, the Medical Center campus is bounded by Broadway on the east, West 168th Street on the north, Riverside Drive and Fort Washington Avenue on the west, and 165th Street on the south (the “Campus”) within an R8 zoning district; and

WHEREAS, the Campus comprises more than 24 six-

story to 22-story buildings on two super blocks, with a combined lot area of approximately 626,444 sq. ft.; and

WHEREAS, the approximate existing floor area is 3,520,280 sq. ft.; and

WHEREAS, ZR § 24-342 restricts the height of signage located in residence districts to a maximum of the lesser of 20 feet above curb level or the height of the ground floor ceiling; and

WHEREAS, the applicant proposes to construct one 30-foot high pylon sign at each of three major entrances of the Campus: (1) at the northwest corner of Fort Washington Avenue and West 165th Street (12’-0” is the maximum height permitted); (2) on the south side of West 168th Street between Broadway and Fort Washington Avenue (15’-0” is the maximum height permitted); and (3) on Broadway near 168th Street (20’-0” is the maximum height permitted); and

WHEREAS, because each of the three 30-foot signs exceeds the maximum height permitted, the instant variance application was filed; and

WHEREAS, the applicant represents that the proposed signs will not create any new non-compliances except for height; and

WHEREAS, the applicant states that the variance request is necessitated by unique conditions of the site that create serious navigational issues for staff, visitors and patients, specifically: (1) the Medical Center’s size; (2) the lack of a unified campus with a single entrance; (3) the configuration of the Medical Center’s individual buildings; and (4) the topography of the Campus; and

WHEREAS, as to its size, the applicant represents that the Campus comprises more than 24 buildings ranging from six to 22 stories in size that house hundreds of different clinical and teaching departments employing more than 15,000 staff; and

WHEREAS, the applicant further represents that the Medical Center attends to more than one million patients annually, including “transfer patients” transported by ambulance from other New York City and regional hospitals; and

WHEREAS, the applicant states that patients, staff and visitors frequently have difficulty finding their destinations because the Campus lacks a single or principal entrance; instead, entry is accessed through any one of the Medical Center’s individual buildings, which are accessed from many different street frontages, and departments are spread throughout the Campus; and

WHEREAS, the applicant further states that a number of major Medical Center buildings are set back a distance from the street with building entrances that are not clearly visible from the street; and

WHEREAS, at hearing, the applicant also noted that Fort Washington Avenue is characterized by a steep slope, which further inhibits the ability of patients, staff and visitors to identify individual buildings; and

WHEREAS, the applicant asserts that the Medical Center’s size, lack of a single entrance, configuration and topography combine to impair the ability of these patients, staff, and visitors to navigate around and through the

MINUTES

Campus and can delay the delivery of health care services to critical care patients; and

WHEREAS, the applicant proposes to alleviate the current navigation problems through the implementation of a comprehensive wayfinding signage program, including as of right street signs, pedestrian locational maps, identifying banners, and Internet maps; and

WHEREAS, specifically, as part of this program, the applicant proposes to place the noted 30-foot pylon signs at three major entrances at the Campus to act as primary identification markers for three critical medical center facilities; (1) the Herbert Irving Pavilion, an ambulatory surgery, diagnostic, laboratory and out-patient treatment facility that is connected to a 700-bed hospital with intensive care units and specialized surgical facilities; (2) the Medical Center's main clinical facility; and (3) the walk-in Emergency Center, which connects internally to the Children's Hospital; and

WHEREAS, the applicant represents that because the Medical Center is situated on an extremely steep slope and is surrounded on all sides by busy streets with heavy pedestrian and vehicular traffic, as well as obstructions at curb level, the proposed pylon height is necessary to be visible from long distances and from various vantage points in order to direct traffic, including regional ambulances carrying transfer patients, to the appropriate drop-off points; and

WHEREAS, the Board finds that these programmatic needs are legitimate, and agrees that the proposed pylons are necessary for the Medical Center, given the size and terrain of the Campus, and the obstructions caused by heavy traffic; and

WHEREAS, accordingly, based upon the above, the Board finds that the size and complexity of the Campus, when considered in conjunction with the programmatic needs of the Medical Center, creates unnecessary hardship and practical difficulty in developing signage that complies with the applicable zoning regulations; and

WHEREAS, since the Medical Center is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

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

WHEREAS, the applicant notes that the immediate neighborhood, between West 165th Street and West 169th Street is dominated by institutional medical, educational and community facility uses, much of which is owned by the applicant; and

WHEREAS, the applicant further notes that large multi-family residential uses predominate to the north and south of the Campus; and

WHEREAS, the applicant states, however, that the residential building nearest to a proposed sign is located at least 100 feet from the pylon sign proposed at Fort Washington Avenue and 165th Street, so that any potential

effects of the signage would be minimal; and

WHEREAS, the applicant also notes that the only change to the Medical Center's Campus will be the positioning of the three signs and asserts that they are compatible with the context of the immediate area; and

WHEREAS, the applicant provided a series of photomontages and urban design analyses demonstrating how the signs would be integrated into the streetscape; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no alternative configuration would meet the programmatic needs of the Medical Center; and

WHEREAS, accordingly, 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 locations of the proposed pylon sites were selected to present the most significant visual impact; signs were designed to be visible from two street frontages and to identify more than one building, in order to reduce the number of signs that would be necessary; and

WHEREAS, the applicant further represents that alternative horizontal signage would require a larger footprint in front of buildings than the proposed vertical signs, thereby impeding pedestrian traffic flow, and would be obstructed by vehicular traffic; and

WHEREAS, renderings submitted by the applicant demonstrate that pylon signs that were twenty feet in height were less effective in identifying the Medical Center campus and individual buildings; and

WHEREAS, accordingly, the Board finds that the requested signage height and number of signs is the minimum necessary to allow the Medical Center to fulfill its programmatic needs; 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 Type II action pursuant to Sections 617.12 (aj) and 617.5 of 6 NYCRR; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination, 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 R8 zoning district, the construction of 30-foot signs to be located at three entrances to a medical center campus which do not comply with sign height regulations, contrary to ZR § 24-342, *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 March 3, 2008"-three (3) sheets; and *on further*

MINUTES

condition:

THAT the total sign height shall not exceed 30'-0", as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, April 1, 2008.

285-07-BZ

CEQR #08-BSA-040M

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

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated February 15, 2008, acting on Department of Buildings Application No. 110009204, reads in pertinent part:

“ZR 32-10: The proposed physical culture establishment use is not permitted as-of-right in the commercial district (C5-2) and is contrary to the ZR”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-2 zoning district, the establishment of a physical culture establishment (PCE) on the second floor of a seven-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 4, 2008, after due notice by publication in *The City Record*, and then to decision on April 1, 2008; and

WHEREAS, the premises and surrounding area had

site and neighborhood examinations by Vice-Chair Collins, Commissioner Hinkson, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of Fifth Avenue, between West 31st Street and West 32nd Street; and

WHEREAS, the site is occupied by a seven-story commercial building; and

WHEREAS, the PCE will occupy 1,440 sq. ft. of floor area on the second floor; and

WHEREAS, the PCE will be operated as Beach Spa, Inc.; and

WHEREAS, the applicant represents that the PCE will provide facilities for massage therapy and skin care; and

WHEREAS, the hours of operation are: from 12:00 p.m. to 12:00 a.m., daily; and

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

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

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

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

WHEREAS, therefore, the Board has determined that 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 617.2(ak); 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. 08BSA040M, dated February 19, 2008; and

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

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

WHEREAS, the Board has determined that the proposed

MINUTES

action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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 C5-2 zoning district, the establishment of a physical culture establishment on the second floor of a seven-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received March 20, 2008"-(2) sheets; and *on further condition*:

THAT the term of this grant shall expire on April 1, 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 plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 1, 2008.

197-05-BZ

APPLICANT – Blank Rome LLP, by Marvin Mitzner, for B & E 813 Broadway, LLC & Broadway Realty, owner.

SUBJECT – Application August 17, 2005 – Variance (§72-21) to allow a 11-story residential building with ground floor retail; contrary to regulations for FAR and open space ratio (§23-142), front wall height, setback and sky-exposure plane (§33-432), and maximum number of dwelling units (§23-22). C6-1 district.

PREMISES AFFECTED – 813/815 Broadway, west side of Broadway, 42' south of East 12th Street, Block 563, Lots 33 & 34, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Marvin Mitzner.

ACTION OF THE BOARD – Laid over to May 6, 2008, at 1:30 P.M., for continued hearing.

68-07-BZ

APPLICANT – Jeffrey A. Chester, Avram Babadzhyanov, owner; Congregation Rubin Ben Issac Haim, lessee.

SUBJECT – Application March 22, 2007 – Under §72-21 Proposed community facility synagogue, which does not comply with front and side yard requirements.

PREMISES AFFECTED – 102-48 65th Road, southwest corner Yellowstone Boulevard and 65th Road, Block 2130, Lot 37, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Jeffrey Chester.

For Opposition: Meir Turner and Eleanor Ney.

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 May 6, 2008, at 1:30 P.M., for decision, hearing closed.

109-07-BZ

APPLICANT – Jeffrey A. Chester, Esq., for Sano Construction Corporation, owner.

SUBJECT – Application May 3, 2007 – Variance (§72-21) to construct on an undersized, triangular lot a two story single family residence. This application seeks to vary lot coverage (§23-141); less than the required front yard (§23-45) and less than the required side yards (§23-461) in an R-5 zoning district.

PREMISES AFFECTED – 33-57 59th Street, triangle formed by 59th Street, 34th Avenue and 60th Street, Block 1183, Lot 70, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 6, 2008, at 1:30 P.M., for continued hearing.

111-07-BZ

APPLICANT – Harold Weinberg, P.E., for Javier Galvez, owner.

SUBJECT – Application May 4, 2007 – Special Permit (§73-622) for the In-Part Legalization of an enlargement to a single family home. This application seeks to vary lot coverage, open space and floor area (§23-141) and side yard (§23-461) in an R3-1 zoning district. It is also proposed to remove the non-complying roof and replace with a complying one.

PREMISES AFFECTED – 155 Norfolk Street, east side, 325' north of Oriental Boulevard, between Oriental Boulevard and Shore Parkway, Block 8757, Lot 34,

MINUTES

Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

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 May 20,
2008, at 1:30 P.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.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

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 April 8,
2008, at 1:30 P.M., for decision, hearing closed.

174-07-BZ

APPLICANT – Carl A. Sulfaro, Esquire, for David Oil
Corporation, owner; Exxon Mobil Corporation, lessee.

SUBJECT – Application June 28, 2007 – Special Permit
(§73-211). Proposed reconstruction of an existing Auto
Service Station with new metal canopy, new fuel tanks,
pumps, new accessory convenience store, located in a C2-
3/R7-A zoning district.

PREMISES AFFECTED – 1925 Coney Island Avenue, a/k/a
1935 Coney Island Avenue, Northeast corner of Avenue P.
Block 6758, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD – Laid over to May 20,
2008, at 1:30 P.M., for continued hearing.

189-07-BZ

APPLICANT – Eric Palatnik, P.C., for Feng Dong, owner.
SUBJECT – Application August 2, 2007 – Variance (§72-
21) to allow ground floor retail use (UG 6) within a six (6)
story residential building; contrary to use regulations (§22-
00). R6 district.

PREMISES AFFECTED – 40-55 College Point Boulevard,
east side of College Point Boulevard, between the LIRR
right-of-way and 41st Avenue, Block 5037, Lot 2, Borough
of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik and Robert Pauls.

ACTION OF THE BOARD – Laid over to May 6,
2008, at 1:30 P.M., for continued hearing.

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.

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 May 6,
2008, at 1:30 P.M., for decision, hearing closed.

271-07-BZ

APPLICANT – The Rizzo Group, for Mitchell Marks,
owner; Club Ventures II, LLC., lessee.

SUBJECT – Application November 28, 2007 – Special
Permit (§73-36) to permit the legalization of a Physical
Culture Establishment (PCE) in the C2-7A portion of the
zoning district. A variance is also requested to allow the
PCE use in the 22'3" portion of the site in the R8A zoning
district. The proposal is contrary to §§ 22-10 and 32-18.

PREMISES AFFECTED – 213-219 West 23rd Street, north
side of 23rd Street between Seventh and Eighth Avenues,
Block 773, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Kenneth Barbina

ACTION OF THE BOARD – Laid over to May 13,
2008, at 1:30 P.M., for continued hearing.

MINUTES

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

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to May 6, 2008, at 1:30 P.M., for decision, hearing closed.

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

APPEARANCES –

For Applicant: Eric Palatnik.

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 April 8, 2008, at 1:30 P.M., for decision, hearing closed.

21-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Pilot Realty Co. c/o Sackman Enterprises, owner; TSI Morris Park LLC dba New York Sports Club, lessee.

SUBJECT – Application January 30, 2008 – Special Permit (§73-36) to legalize the operation of a Physical Culture Establishment on the first floor of a two-story commercial building. The proposal is contrary to section 42-10. M1-1 district.

PREMISES AFFECTED – 1601 Bronxdale Avenue, westerly side of Bronxdale Avenue, 675’ southerly of Van Nest Avenue, Block 4042, Lot 200, Borough of Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Fredrick A. Becker.

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 May 6, 2008, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.