
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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228-08-BZ

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229-08-BZ

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233-08-A

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234-08-BZ

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

CALENDAR

OCTOBER 7, 2008, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 7, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

736-45-BZ

APPLICANT – Walter T. Gorman, P.E., for Midel Property Associates, LLC, owner; Exxon Mobil Corporation, lessee. SUBJECT – Application June 3, 2008 – Extension of Term/waiver for a previously granted variance for the operation of a gasoline service station (Mobil), in a C2-4/R8 zoning district, which expired on March 17, 1999 and an Extension of Time to obtain a Certificate of Occupancy which expired on May 8, 2000.

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

COMMUNITY BOARD #12M

94-58-BZ

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

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

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

COMMUNITY BOARD #3Q

141-58-BZ

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

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

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

COMMUNITY BOARD #7BX

198-66-BZ

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

SUBJECT – Application July 25, 2008 – Extension of Time to Complete Construction of an existing plaza for a residential high rise building, in a C1-9 zoning district,

which expired on June 19, 2008 and an Extension of Time to obtain a Certificate of Occupancy which expires on June 19, 2009.

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

COMMUNITY BOARD #8M

170-96-BZ

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

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

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

COMMUNITY BOARD #18BK

20-02-BZ

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

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

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

COMMUNITY BOARD #5M

APPEALS CALENDAR

70-08-A thru 72-08-A

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

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

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

COMMUNITY BOARD #1SI

73-08-A thru 75-08-A

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

SUBJECT – Application April 1, 2008 – An appeal seeking a determination that the property owner has acquired a

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common law vested right to continue construction under the prior district regulations. R3A zoning district.

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

COMMUNITY BOARD #1SI

81-08-A & 82-08-A

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

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

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

COMMUNITY BOARD #3M

168-08-A

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

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

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

COMMUNITY BOARD #13BK

OCTOBER 7, 2008, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, October 7, 2008, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

46-08-BZ

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

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

PREMISES AFFECTED – 491 Bedford Avenue, 142

Clymer Street, southwest corner of Bedford Avenue and Clymer Street, Block 2173, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #1BK

175-08-BZ

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

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

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

COMMUNITY BOARD #3M

189-08-BZ

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

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

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

COMMUNITY BOARD #2M

190-08-BZ

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

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

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

COMMUNITY BOARD #2M

203-08-BZ

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

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

PREMISES AFFECTED – 1245 East 23rd Street, located on the east side of East 23rd Street between Avenue L and

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Avenue M. Block 7641, Lot 26, Borough of Brooklyn.
COMMUNITY BOARD #14BK

Queens.
COMMUNITY BOARD #14Q

214-08-BZ

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

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

COMMUNITY BOARD #15BK

Jeff Mulligan, Executive Director

Jeff Mulligan, Executive Director

OCTOBER 8, 2008, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 8, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL PUBLIC HEARING

229-06-A

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

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

COMMUNITY BOARD #14Q

140-07-A

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

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

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

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REGULAR MEETING TUESDAY MORNING, SEPTEMBER 9, 2008 10:00 A.M.

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

SPECIAL ORDER CALENDAR

218-58-BZII

APPLICANT – Vassalotti Associates Architects, LLP, for
Norman Dawson, owner.

SUBJECT – Application June 3, 2008 – Extension of Term
for an existing gasoline service station (Exxon), in a C1-
2/R-2 zoning district, which expired on July 29, 2008.

PREMISES AFFECTED – 77-40 Hewlett Street, west side,
80.02' south of 77th Road, Block 8555, Lots 60 & 61,
Borough of Queens.

COMMUNITY BOARD #13Q

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 an extension of
term of a gasoline service station, which expired on July 29,
2008; and

WHEREAS, a public hearing was held on this
application on August 26, 2008, after due notice by publication
in *The City Record*, and then to decision on September 9, 2008;
and

WHEREAS, Community Board 13, Queens, had no
objections to the approval of the proposal; and

WHEREAS, the site is located on the west side of
Hewlett Street between 77th Road and Union Turnpike; and

WHEREAS, the site is within a C1-2 (R-2) zoning
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 July 29, 1958, when, under the subject
calendar number, the Board granted a variance permitting the
construction and maintenance of an automotive service station
and accessory building; and

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

WHEREAS, most recently, on February 2, 1999, the
grant was amended to permit an enlargement of an accessory
building and to extend the term for ten years from the
expiration of the prior grant on July 29, 1998; and

WHEREAS, the applicant now seeks to extend the term
of the variance, which expired on July 29, 2008; and

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

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

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

Therefore it is Resolved that the Board of Standards and
Appeals *reopen* the resolution, as adopted July 29, 1958, so
that as amended this portion of the resolution shall read: “to
extend the term for ten years from the expiration of the prior
grant, to expire on July 29, 2018 *on condition* that any and all
work shall substantially conform to drawings filed with this
application; 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 July 29, 2018;

THAT the site be maintained free of debris and graffiti;

THAT all landscaping be planted and maintained as 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
September 9, 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. 410100411)

Adopted by the Board of Standards and Appeals,
September 9, 2008.

546-82-BZIII

APPLICANT – Pasquale Carpentiere, owner; Ganesh
Budhu, lessee.

SUBJECT – Application April 14, 2008 – Extension of
Term for a UG8 parking lot which expires on June 14, 2008
in an R7a/DJ zoning district.

PREMISES AFFECTED – 148-15 89th Avenue, north side
of 89th Avenue, between 148th and 150th Streets, Block 9693,
Lot 60, Borough of Queens.

COMMUNITY BOARD #12Q

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 reopening, an

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amendment, and an extension of the term for a previously granted variance for a parking lot (UG8) which expired on May 6, 2007; and

WHEREAS, a public hearing was held on this application on June 3, 2008, after due notice by publication in *The City Record*, with continued hearings on July 15, 2008, July 22, 2008, August 26, 2008, and then to decision on September 9, 2008; and

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

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

WHEREAS, the subject site is on the north side of 89th Avenue, between 148th Street and 150th Street; and

WHEREAS, the site is located within an R7A zoning district within the Downtown Special Jamaica District, and is occupied by a parking lot; and

WHEREAS, on June 14, 1983, under the subject calendar number, the Board granted a variance to allow an enlargement of an existing legal non-conforming open parking lot for a term of ten years; and

WHEREAS, on May 9, 1985, the grant was extended by ten years, to expire on June 14, 2003, and amended to limit the capacity to 68 parking spaces and ten reservoir spaces; and

WHEREAS, the applicant represents that there have not been any changes to the site; and

WHEREAS, at hearing, the Board asked the applicant to explain the necessity for the razor wire along the top of the fence surrounding the subject site; and

WHEREAS, the applicant stated that the razor wire was necessary to deter trespassers, as the lot adjoined secluded areas; and

WHEREAS, the applicant provided photographs reflecting possible points of entry to the lot; and

WHEREAS, the applicant also seeks to amend the previously granted variance to permit unattended evening parking by non-commercial vehicles; and

WHEREAS, the applicant states that permitting unattended parking by local residents will relieve a shortage on available on-street parking spaces; and

WHEREAS, the applicant seeks a ten-year extension; and

WHEREAS, the Board may permit an extension of term for a previously granted variance; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 14, 1983, so that as amended this portion of the resolution shall read: "to grant an extension of the variance for a term of ten years from the expiration of the prior grant, to expire on June 14, 2013; *on condition* that the use and operation of the site shall substantially conform to the approved drawings, filed with this application; and *on further condition*:

THAT the term of this grant shall expire on June 14,

2013;

THAT hours of operation of attended parking shall be from 7:00 a.m. to 6:00 p.m. and unattended parking for local residents will be provided from 6:00 p.m. to 7:00 a.m.; and

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

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

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

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

(Alt. No. 1206/79)

Adopted by the Board of Standards and Appeals, September 9, 2008.

788-89-BZ

APPLICANT – Dominick Salvati & Son Architects, for Anna Mastromihalis, owner.

SUBJECT – Application June 25, 2007 – Extension of Term/waiver for a UG16 automobile repair shop and automobile sales which expired on November 19, 2006 and Extension of Time to obtain a Certificate of Occupancy which expired on November 18, 1998 in a C2-2 zoning district.

PREMISES AFFECTED – 187-17 Jamaica Avenue, northeast corner of intersection of Jamaica Avenue and 187th Place, Block 9910, Lot 11, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Mark McArthur.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening of a variance permitting automobile sales and repairs (Use Group 16), an extension of term which expired on November 19, 2006, and an extension of the time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on May 20, 2008 after due notice by publication in the *City Record*, with continued hearings on June 24, 2008, July 29, 2008 and then to decision on September 9, 2008; and

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

WHEREAS, Community Board 12, Queens, recommends disapproval of this application; and

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WHEREAS, the site is located at the northeastern intersection of Jamaica Avenue and 187th Place, within a C2-2 (R5) zoning district; and

WHEREAS, the subject site has a total lot area of 10,000 sq. ft.; and

WHEREAS, the site is currently occupied by a parking area for cars offered for sale and an accessory auto repair building; and

WHEREAS, the site has been under the jurisdiction of the Board since April 24, 1934, when, under Cal. No. 8-34-BZ, the Board approved the erection and maintenance of a gasoline service station at the site; and

WHEREAS, the grant was subsequently extended and amended; and

WHEREAS, on November 18, 1991, under the subject calendar number, the Board granted a variance to permit a change in use to auto repairs and auto sales, a legalization of an enlargement, and an extension of term, to expire November 19, 1996; and

WHEREAS, on November 18, 1997, under the subject calendar number, the Board granted an extension of ten years, to expire on November 19, 2006; and

WHEREAS, the applicant now seeks to extend the term; and

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

WHEREAS, at hearing, the Board directed the applicant to address the following conditions: (1) signage must comply with C2 zoning district regulations; (2) the site is overcrowded and has an inefficient traffic flow; and (3) the site is not well-maintained; and

WHEREAS, as to the signage, the applicant removed non-complying signage to bring the signage into compliance with C2 zoning district regulations; and

WHEREAS, the applicant also presented evidence that the site had been cleaned up; and

WHEREAS, the applicant submitted a site plan indicating the location of 36 parking spaces for cars offered for sale and four spaces for customer parking; the site plan is consistent with previously approved drawings; and

WHEREAS, based upon the above, the Board finds the requested extension appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens the resolution, as adopted November 18, 1991, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten (10) years from the expiration of the prior grant, to expire on November 19, 2017, and to extend the time to obtain a certificate of occupancy; *on condition* that any and all use shall substantially conform to drawings filed with this application marked “Received June 19, 2008”-(3) sheets; and *on further condition*:

THAT this grant shall be for a term of ten (10) years, to expire on November 19, 2017;

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

THAT the site shall be maintained free of debris and

graffiti;

THAT all signage shall comply with C2 zoning district regulations;

THAT the hours of operation shall be limited to Monday through Sunday, 10:00 a.m. to 7:00 p.m.;

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

THAT construction shall be completed and a new certificate of occupancy obtained within six months of the date of this grant, by March 9, 2009;

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

THAT the parking layout shall be as approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, September 9, 2008.

164-99-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Ivan Duque, owner.

SUBJECT – Application March 20, 2008 – Extension of Term/waiver for a (UG12) eating and drinking establishment without restrictions on entertainment, in a C2-3/R-6 zoning district, which expired on August 15, 2006; an Amendment to the seating layout on the first and second floors, relocation of the bar on the second floor and the addition of two storage rooms in the cellar.

PREMISES AFFECTED – 79-03 Roosevelt Avenue, north side of Roosevelt Avenue, 22’ east of the intersection of 79th Street and Roosevelt Avenue, Block 1290, Lot 46, Borough of Queens.

COMMUNITY BOARD #3Q

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 of the Rules of Practice and Procedure, a re-opening and an extension of term of a previously granted special permit, which expired on August 15, 2006, for an eating and drinking establishment with entertainment and dancing (UG 12); and

WHEREAS, a public hearing was held on this

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application on August 26, 2008, after due notice by publication in *The City Record*, and then to decision on September 9, 2008; and

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

WHEREAS, Community Board 3, Queens, recommends approval of this application; and

WHEREAS, the premises is located on the north side of Roosevelt Avenue, east of the intersection of 79th Street and Roosevelt Avenue, and

WHEREAS, the premises is currently occupied by a two-story building that houses an eating and drinking establishment with entertainment and dancing (UG 12) on both floors; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 6, 1989 when, under calendar number 873-87-BZ, the Board granted a special permit pursuant to Z.R. § 73-244, to permit, in a C2-3(R6) zoning district, an eating and drinking establishment with entertainment and dancing (UG 12); and

WHEREAS, on August 15, 2000, under the subject calendar number, the Board granted an extension of the special permit for a term of three years; and

WHEREAS, on August 9, 2005, the Board granted an additional three-year term, such extension expired on August 15, 2006; and

WHEREAS, the applicant now requests an extension of term; and

WHEREAS, the applicant also seeks to amend the plans to permit changes to the seating layout on the first and second floors and to add two storage rooms to the cellar; and

WHEREAS, at the hearing the Board raised concerns with proposed changes to the second floor to provide seating which would not be permitted by the special permit; and

WHEREAS, the applicant agreed that the use of the second floor will comply with the terms of the previously approved special permit; and

WHEREAS, based upon the above, the Board finds the requested extension and amendments appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on June 6, 1989, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to permit the noted amendment to the plans and to extend the term of the special permit for an eating and drinking establishment with entertainment and dancing for three (3) years from August 15, 2006, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘March 20, 2008’-(2) sheets and ‘August 5, 2008’-(3) sheets; and *on further condition*:

THAT the term of this grant shall be for three (3) years from the last expiration date, to expire on August 15, 2009;

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

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy;

THAT a new certificate of occupancy and public assembly permit shall be obtained within six months of this grant;

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. 401619192)

Adopted by the Board of Standards and Appeals, September 9, 2008.

43-02-BZ

APPLICANT – Sheldon Lobel PC, for George Pantelides, owner.

SUBJECT – Application February 1, 2002 – Under §72-21 to legalize an existing greenhouse-type structure and stairway platform encroaching partially within a required theoretical rear yard. Re-opened in Bulletin 88/4/54 denied in hearing.

PREMISES AFFECTED – 116 East 73rd Street, south side between Park Avenue and Lexington Avenue Block 1407, Lot 67, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings, dated January 14, 2002 and updated on February 1, 2002 acting on Alteration Application. No. 102232344 reads:

“Proposed legalization of greenhouse type construction within 30 ft. required rear yard is contrary to section 23-47 of the Zoning Resolution and the decision of the Board of Standards and Appeals on April 27, 2001 under Calendar No.: 31-01-A.”; and

WHEREAS, the subject premises are improved with an attached townhouse located between Park and Lexington Avenues in an R8BB/LH-1A zoning district which is also part of the Upper East Side Historic District; and

WHEREAS, the building contains four floors, a basement and cellar with a fully attached building, a non-complying portion of the rear of the subject premises protrudes into the required 30’ rear yard; and

WHEREAS, on June 25, 1999, the Department of Buildings (“DOB”) approved Alteration Application No.102232344 permitting the construction of a two story

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“greenhouse” which would occupy a formerly open space that constituted a non-compliant rear yard to the subject premises; and

WHEREAS, the above-referenced permit allowed for construction of a glass-enclosed staircase on the first and second floors with an open space at grade, which is the basement level; and

WHEREAS, the record indicates that construction of the glass-enclosed staircase was completed on or about September 1999; and

WHEREAS, the subject structure is built above the first story (the basement) and contains two stories, one at the first floor and the other at the second floor; and

WHEREAS, Z.R. § 23-47 requires that R8B zoning districts provide at least one rear yard with a depth of at least 30 feet; and

WHEREAS, however, at the basement, first and second floors, the building extends an additional 14' into the rear yard, leaving a non-compliant rear yard only 24'-2"; and

WHEREAS, on April 24, 2001, under Calendar Number 31-01-A, the Board granted an administrative appeal reversing the DOB decision to permit the construction of the two-story enlargement in the rear of subject premises; and

WHEREAS, under the subject calendar number, the owner of the subject premises subsequently filed an application pursuant to Z.R. § 72-21, to permit the legalization of the staircase structure encroaching partially within the required rear yard contrary to ZR. § 23-47; and

WHEREAS, the Board found that the subject structure failed to meet the definition of a greenhouse as per the Zoning Resolution and that the instant application did not meet the requirements of Z.R §72-21 (a), (b) and (d); and

WHEREAS, on January 14, 2003, under the subject calendar number, the Board denied the application seeking a variance to Z.R. § 23-47; and

WHEREAS, the applicant subsequently filed a petition pursuant to Article 78 of the Civil Practice Law and Rules seeking an order annulling the Board's decision; and

WHEREAS, the Supreme Court granted the petition and ordered the Board to grant the variance (see Pantelidis v. Board of Standards and Appeals, 814 N.Y.S.2d 891 (N.Y. Sup. 2005)); and

WHEREAS, the Supreme Court decision was affirmed by the Appellate Division (43 A.D.3d 314 (1st Dep't 2004)) and by the Court of Appeals (10 N.Y.3d 846 (2008)); and

WHEREAS, the resolution adopted January 14, 2003, under the subject calendar number is hereby annulled; and

Therefore it is Resolved that the Board of Standards and Appeals, in accordance with the December 23, 2005 order of the Supreme Court, permits within an R8B zoning district, the two-story enlargement of an existing five-story building that does not provide the required rear yard, contrary to ZR § 23-47; *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 14, 2002”– (6) sheets; and *on further condition*:

THAT this approval is limited to the relief granted by the

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

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

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

Adopted by the Board of Standards and Appeals, September 9, 2008.

709-55-BZIII

APPLICANT – Walter T. Gorman, P.E., for L M T Realty Company, owner; Exxon Mobil Corporation, lessee.

SUBJECT – Application May 27, 2008 – Extension of Time to obtain a Certificate of Occupancy, in a C1-2/R4 zoning district, for a gasoline service station (Mobil) which expired on January 9, 2003; waiver of the rules and an Amendment to legalize existing condition contrary to previous approved plans.

PREMISES AFFECTED – 2000 Rockaway Parkway, northwest corner of Seaview Avenue, Block 8299, Lot 68, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to September 23, 2008, at 10 A.M., for decision, hearing closed.

719-56-BZ

APPLICANT – Walter T. Gorman, P.E., for ExxonMobil Corporation, owner; Victory Service Station Incorporated, lessee.

SUBJECT – Application July 2, 2008 – Extension of Term/waiver for a gasoline service station (Mobil) in a C2-1/R3-2 zoning district which expired on April 27, 2007 and Extension of Time to obtain a Certificate of Occupancy which expired on October 26, 2000.

PREMISES AFFECTED – 2525 Victory Boulevard, northwest corner of Willowbrook Road, Block 1521, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: John Ronan.

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

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115-94-BZ

APPLICANT – Martyn & Don Weston, for Irma Poretzky, owner.

SUBJECT – Application June 16, 2008 – (§11-411) Extension of Term/Waiver for an Automotive Repair Shop located in an R6 zoning district which expired on July 30, 2006.

PREMISES AFFECTED – 2470-2480 Bedford Avenue, 60 feet north of Clarendon Road, Block 5167, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Don Weston.

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

APPEALS CALENDAR

95-08-A

APPLICANT – Blank Rome LLP by Marvin Mitzner, for 6701 Realty, LLC, owner.

SUBJECT – Application April 16, 2008 – An appeal seeking a determination that the property owner has acquired common law vested right to continue development under the prior C4-3 zoning district regulations. C4-2A zoning district.

PREMISES AFFECTED – 6701 Bay Parkway, southeast corner of the intersection of Bay Parkway and West 8th Street, Block 6576, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Daniel Braff.

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 appeal requesting a Board determination that the owner of the premises has obtained the right to complete an enlargement of an existing commercial building under the common law doctrine of vested rights and a rescission of a Stop Work Order issued against the property; and

WHEREAS, a public hearing was held on this application on July 29, 2008 after due notice by publication in *The City Record*, and then to decision on September 9, 2008; and

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

WHEREAS, Community Board 11, Brooklyn recommends approval of this application; and

WHEREAS, the subject site consists of a two-story commercial building on the southeast corner of the

intersection of Bay Parkway and West 8th Street, in the Bensonhurst neighborhood of Brooklyn; and

WHEREAS, the applicant proposes to add a three-story enlargement to an existing commercial building for a total floor area of 21,539 sq. ft.; and

WHEREAS, the subject site was formerly located within an C4-3 zoning district; and

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

WHEREAS, however, on June 23, 2005 (hereinafter, the “Rezoning Date”), the City Council voted to adopt the Bensonhurst Rezoning, which rezoned the site to C4-2A; and

WHEREAS, the building does not comply with the C4-2A district parameters as to floor area and height; and

WHEREAS, on January 17, 2008, the applicant was issued a Stop Work Order by DOB, halting construction on the site; and

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

WHEREAS, Alteration Permit No. 301952590 permitting the enlargement of the subject building (the “Alteration Permit”) was issued to the owner by the Department of Buildings (DOB) on June 2, 2005, prior to the Rezoning Date; and

WHEREAS, the applicant states that 100 percent of the foundation work necessary for the enlargement was completed by the Rezoning Date; and

WHEREAS, according to an April 15, 2008 reconsideration of the Brooklyn Borough Commissioner, the building was vested on the Rezoning Date; and

WHEREAS, thus, the Board finds that the Alteration Permit was validly issued by DOB to the owner of the subject premises and was in effect until its lapse by operation of law on June 23, 2007; and

WHEREAS, the applicant notes that because the Alteration Permit was vested as of the Rezoning Date, the developer would have been eligible to apply for an extension of time to complete construction under Z.R. § 11-332; and

WHEREAS, the applicant states that the developer was unaware that an application for an extension of time to complete construction under Z.R. § 11-332 must be filed within 30 days of the of the date the permit lapsed; and

WHEREAS, the deadline for such an application was July 23, 2007; and

WHEREAS, the applicant now files the instant application seeking to establish a common law right to complete construction; and

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

WHEREAS, the applicant cites to Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) for the proposition that the statutory text of Z.R §11-331 does not “codify or abolish the common-law doctrine of vested rights” and, further, that the

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developer's failure to meet the deadline for filing an application for a building permit renewal under Z.R §11-331 would not affect the developer's right to establish vested rights under the common law; and

WHEREAS, the Board notes that Kadin v. Bennett provides that, where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance;" and

WHEREAS, however, notwithstanding this general framework, the court in Kadin v. Bennett found that "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right.' Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action;" and

WHEREAS, as to substantial construction, the applicant states that before the lapse of the building permit, the owner had nearly completed the building enlargement; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: photographs of the site taken July 18, 2007, a schedule of work performed, cancelled checks, accounting summaries, and an affidavit of the project architect; and

WHEREAS, the Board concludes that given the size of the site, and based upon a comparison of the type and amount of work completed in the instant case with the type and amount of work found by New York State courts to support a positive vesting determination, a significant amount of work was performed at the site prior to the lapse of the building permit; and

WHEREAS, the Board also notes that construction of the superstructure, roofing, installation of windows, HVAC equipment, ductwork, interior framing, window installation and sheetrocking indisputably occurred prior to the lapse of the building permit; and

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

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

WHEREAS, the applicant states that prior to the lapse of the building permit, the owner expended approximately \$2,386,288, including hard and soft costs and irrevocable commitments, out of approximately \$2,619,386 budgeted for the entire project; and

WHEREAS, as proof of the expenditures, the applicant

has submitted cancelled checks and accounting reports; and

WHEREAS, in relation to actual construction costs and related soft costs, the applicant specifically notes that the owner had paid \$2,182,288 for excavation, installation of foundations, exterior and interior construction and architectural and engineering fees; and

WHEREAS, the applicant further states that the owner also irrevocably owed an additional \$204,000 in connection with work performed at the site prior to June 23, 2007 which had not yet been paid for; and

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

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

WHEREAS, the applicant represents that a complying development would have a maximum of three stories with a total floor area of 13,462 sq. ft., due to the C4-2A zoning district's height and bulk restrictions; and

WHEREAS, the applicant contends that \$2,386,288 associated with project costs incurred prior to the lapse of the building permit would be lost if this appeal were denied; and

WHEREAS, the applicant contends and the Board agrees that such a loss is significant;

WHEREAS, additionally, the applicant explained the diminution in income that would occur if the C4-2A district height and bulk limits were imposed; and

WHEREAS, the applicant notes that a substantial portion of the building would have to be demolished and reconstructed for such a complying building, further compounding the economic harm to the owner; and

WHEREAS, the Board agrees that the need to redesign, the cost of demolition, the limitations of any complying development, and the \$2,386,288 in actual expenditures and outstanding fees that could not be recouped constitute, in the aggregate, a serious economic loss, and that the supporting data submitted by the applicant supports this conclusion; and

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

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a rescission of the Stop Work Order and a reinstatement of Alteration Permit No. 301952590, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, September 9, 2008.

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141-07-A

APPLICANT – Hakime Altine, for Charles Macena, owner.
SUBJECT – Application May 29, 2007 – Proposed construction of a two story one family residential building in the bed of mapped street (Hook Creek Boulevard) contrary to General City Law Section 35. R2 Zoning.

PREMISES AFFECTED – 129-48 Hookcreek Boulevard, situated on the West side of Hookcreek Boulevard, Block 12891, Lot 10, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Hakime Altine.

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

251-07-A thru 254-07-A

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

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

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

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

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

ACTION OF THE BOARD – Laid over to October 7, 2008, at 10 A.M., for continued hearing.

266-07-A

APPLICANT – Stuart A. Klein, for 1610 Ave S LLC, owner.

SUBJECT – Application November 21, 2007 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R6 district regulations. R4-1 Zoning District.

PREMISES AFFECTED – 1610 Avenue S, Block 7295, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

APPEARANCES –

For Applicant: Deirdre Carson and Stuart A. Klein.

For Opposition: Susan Reagan, Liam O’Hanlor, Bernadette Morrissy, Mindy M. Spiewak, Sherry Boosker, Ilya Novofastovsky, Ed Jaworski and Marsha B.

For Administration: Lisa Orrantia, Department of Buildings.

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

191-08-BZY

APPLICANT – Stuart A. Klein, for 1610 Avenue S, LLC, owner.

SUBJECT – Application July 14, 2008 – Extension of time to complete construction (§11-331) of a minor development commenced prior to the amendment of the zoning district regulations. R4-1 Zoning District.

PREMISES AFFECTED – 1610 Avenue S, Block 7295, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Deirdre Carson and Stuart A. Klein.

For Opposition: Susan Reagan, Liam O’Hanlor, Bernadette Morrissy, Mindy M. Spiewak, Sherry Boosker, Ilya Novofastovsky, Ed Jaworski and Marsha B.

For Administration: Lisa Orrantia, Department of Buildings.

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

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**REGULAR MEETING
TUESDAY AFTERNOON, SEPTEMBER 9, 2008
1:30 P.M.**

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

ZONING CALENDAR

134-06-BZ

CEQR #06-BSA-104Q

APPLICANT – Sheldon Lobel, P.C., for 241-15 Northern LLC, owner.

SUBJECT – Application June 26, 2006 – Variance under §72-21 to allow a five (5) story residential building containing 40 dwelling units and 63 accessory parking spaces. Proposal is contrary to regulations for use (§22-12), floor area and FAR (§23-141), open space (§23-141), front yard (§23-45), height and setback (§23-631) and maximum number of dwelling units (§23-22). R1-2 district.

PREMISES AFFECTED – 241-15 Northern Boulevard, northwest corner of the intersection between Northern Boulevard and Douglaston Parkway, Block 8092, Lot 39, Borough of Queens.

COMMUNITY BOARD # 11Q

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, decision of the Queens Borough Commissioner, dated August 13, 2008, acting on Department of Buildings Application No. 402387449, reads in pertinent part:

- “1. The proposed multiple dwelling use is contrary to ZR § 22-12 and therefore requires approval of the Board of Standards and Appeals.
2. The proposed floor area and FAR exceeds that which is permitted under ZR § 23-141.
3. The proposed open space is less than the minimum required amount under ZR § 23-141.
4. The proposed front yard is less than the minimum required amount under ZR § 23-45.
5. The proposed multi-family residential building does not meet the sky exposure plane requirements under ZR § 23-631.
6. The proposed development exceeds the maximum number of dwelling units permitted on the zoning lot under ZR § 23-22.
7. The proposed rear yard on the interior lot portion is less than required under ZR § 23-47;” and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R1-2 zoning district, a proposed three-story residential building (Use Group 2) with 24 dwelling units and 34 accessory parking spaces (with an additional three reservoir spaces), which is not a permitted use, exceeds the maximum permitted FAR, does not provide the required open space, front yard, or rear yard, encroaches into the sky exposure plane, and exceeds the maximum number of dwelling units, contrary to ZR §§ 22-12, 23-141, 23-45, 23-631, 23-47 and 23-22; and

WHEREAS, a public hearing was held on this application on September 18, 2007, after due notice by publication in the *City Record*, with continued hearings on February 5, 2008, April 15, 2008, June 17, 2008, and then to decision on September 9, 2008; and

WHEREAS, the hearing was closed and set for decision on July 29, 2008; the Board subsequently reopened the hearing to permit the applicant to submit revised plans and set the case for decision September 9, 2008; and

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

WHEREAS, Community Board 11, Queens, recommended disapproval of an earlier iteration of the proposal (for a five-story building), citing concerns about increased traffic and insufficient parking; and

WHEREAS, the Queens Borough President recommends disapproval of the application; and

WHEREAS, State Senator Frank Padavan and City Council Member Tony Avella recommend disapproval of the application; and

WHEREAS, certain neighbors, including representatives of the Douglaston/Little Neck Historical Society and the Douglaston Civic Association, provided testimony in opposition to the application, citing concerns about (1) whether the proposal represented the minimum variance, (2) the current use of the site as a parking lot, and (3) the potential traffic impact; and

WHEREAS, the Douglaston Civic Association was represented by counsel and provided submissions in opposition to the proposal, which include the following additional concerns (1) that the applicant had not met any of the required findings under ZR § 72-21, (2) the building’s bulk and number of dwelling units are not compatible with the neighborhood context, and (3) that there will be an increase in traffic generated by the building’s residents; and

WHEREAS, collectively, those opposed to the application are the “Opposition”; and

WHEREAS, the Opposition’s concerns are discussed in greater detail below; and

WHEREAS, the subject premises is located on the northwest corner of the intersection of Northern Boulevard and the Douglaston Parkway; and

WHEREAS, the site is irregularly-shaped, and has a total lot width of 95.11 feet and a total lot area of approximately 14,517 sq. ft.; and

WHEREAS, the site is occupied by a one-story vacant

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gasoline service station building, which will be demolished; and

WHEREAS, the Board notes that on February 15, 1961, under BSA Cal. No. 603-37-BZ, it granted a variance for the construction of a gasoline service station with accessory uses; the grant was subsequently amended and extended at various times; and

WHEREAS, additionally, on May 14, 1991, under BSA Cal. No. 216-88-BZ, the Board granted a variance to permit the construction of a three-story and penthouse office building (Use Group 6); construction pursuant to the variance never commenced and it expired on May 14, 1995; and

WHEREAS, the Board notes that the current proposal has gone through several iterations throughout the hearing process, including the following: (1) a five-story building with 39,950 sq. ft. of floor area (2.75 FAR), 40 dwelling units, a total height of 70'-6", and 63 parking spaces; (2) a four-story building with 31,960 sq. ft. of floor area (2.20 FAR), 32 dwelling units, a total height of 51'-6", and 34 parking spaces; and (3) a four-story building, with 30,520 sq. ft. of floor area (2.10 FAR), 28 dwelling units, a total height of 48'-6", and 34 parking spaces; and

WHEREAS, the Board directed the applicant to reduce the size of the building and the number of dwelling units so that the building was more compatible with adjacent uses and the neighborhood context and so that the proposal met the minimum variance finding; and

WHEREAS, the applicant provided revised financial analyses to correspond to the iterations; and

WHEREAS, the applicant now proposes a three-story Use Group 2 residential building (only Use Group 1 residential development is permitted); with a front wall and total height of 30'-0" (the maximum permitted front wall height is 25'-0" and the total height is based on compliance with the sky exposure plane); 22,860 sq. ft. of floor area (1.57 FAR) (the maximum permitted floor area is 7,258.5 sq. ft. and 0.50 FAR); front yards with depths of 15'-0" and 10'-1 1/2" (front yards with minimum depths of 20'-0" are required); open space of 52 percent (150 percent is the minimum permitted); 24 dwelling units (the maximum permitted number of dwelling units is two); 34 parking spaces (with an additional three reservoir spaces); and a rear yard of 15'-0" within the interior lot portion of the zoning lot (30'-0") is required.

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable zoning district regulations: (1) a sloping lot condition, (2) soil contamination due to a history of automotive related uses at the site, which requires remediation, and (3) the location on a heavily-trafficked intersection, in close proximity to multi-family dwellings; and

WHEREAS, as to the sloping condition, the applicant notes that there is a difference in the elevation across the site from the northeast corner along Douglaston Parkway to the southwest corner at Northern Boulevard of approximately 15'-7"; and

WHEREAS, due to this condition, a masonry retaining wall is required along the Douglaston Parkway frontage at

varying heights to secure the adjacent sidewalk; and

WHEREAS, the applicant represents that the slope creates a pit-like condition, which would not be compatible with a complying single-family home situated near Douglaston Parkway, that would result in first floor windows being nearly flush with the Douglaston Parkway street level; and

WHEREAS, further, the applicant notes that the corner lot is irregularly-shaped and that the provision of the two required front yards, open space and rear yard would result in the bulk of the building shifting away from the street frontage and towards the adjacent site, or would require additional height to accommodate the proposed floor area; and

WHEREAS, the proposed front wall and total height, including encroachment into the sky exposure plane, permits the construction of uniform floor plates and a more efficient design; and

WHEREAS, the applicant represents that a multiple-dwelling building, with the inclusion of a partial subsurface parking level is required to overcome the grade difference and elevate the first floor of the building above the street; and

WHEREAS, as to the soil contamination, the applicant represents that (1) the existence of a trench drain at the southwestern corner of the site will require significant remediation, (2) an area of oil-like stained soil has been identified at the site, and (3) there is a likely presence of underground storage tanks at the site; and

WHEREAS, the applicant submitted a study from an environmental consultant, which supports these assertions; and

WHEREAS, the applicant represents that due to these conditions, any development of the property will require environmental monitoring and remediation, which will increase the construction costs and contribute to the infeasibility of as-of-right development; and

WHEREAS, the Board notes that the prior approved use of the site for automotive uses dates back to before 1961 and predates the enactment of modern environmental protection regulations and safeguards for such uses; and

WHEREAS, as to the site's location at a heavily-trafficked intersection, the applicant notes that Northern Boulevard and Douglaston Parkway are both major thoroughfares, and the location is not marketable for single-family home development; and

WHEREAS, specifically, the applicant notes that nearby commercial uses and multi-dwelling buildings are more compatible because they do not require the expectation of privacy associated with less dense residential development; and

WHEREAS, the applicant performed a survey along two miles of Northern Boulevard in the area, which revealed that there are no one-family or two-family homes directly on Northern Boulevard and only one such home was adjacent to it; and

WHEREAS, the applicant states that no other sites located on Northern Boulevard are similarly zoned R1-2 and surrounded by large non-conforming multi-family and commercial uses and located at a major intersection; and

WHEREAS, the Board does not accept that the site's location at a heavily trafficked intersection presents a unique condition that creates practical difficulty or unnecessary

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hardship; and

WHEREAS, however, the Board agrees that the site's topography and irregularity, the increased construction costs as a result of contamination, in combination with the site's location at a heavily trafficked intersection may result in one or two-family homes that are not marketable; and

WHEREAS, the applicant represents that the waivers are required to develop marketable dwelling units with sufficient floor area to overcome the premium construction costs, while maintaining a building with a bulk and density that is compatible with neighborhood character; and

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

WHEREAS, initially, the applicant submitted financial analyses of: (1) an as-of-right scenario of two single-family homes with frontage on Northern Boulevard; (2) a 2.75 FAR multiple dwelling building with 40 units; (3) a lesser variance scenario of 0.60 FAR with ten dwelling units (reflecting an R3-2 scenario); and (4) a lesser variance scenario of 1.51 FAR (reflecting an R5 infill development); and

WHEREAS, the applicant concluded that the 2.75 FAR scenario was the only scenario of the four analyzed that provided a reasonable rate of return; and

WHEREAS, as noted, throughout the hearing process, the Board directed the applicant to reduce the degree of waivers requested to reflect the minimum variance; thus, the applicant modified the financial analysis to reflect different scenarios and to respond to the Board's concerns; and

WHEREAS, ultimately, the applicant provided a revised financial analysis which reflects that the proposed three-story (1.57 FAR) building with 24 dwelling units is the minimum capable of yielding a reasonable return; and

WHEREAS, thus, the applicant asserts that the use, number of dwelling units, FAR, height, front yard, rear yard, and open space waivers are required to overcome the premium construction costs and to construct a marketable residential use, given the constraints of the site; and

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

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

WHEREAS, the applicant states that the surrounding area on both Northern Boulevard and Douglaston Parkway is characterized by a mix of uses and a significant number of multi-family residential buildings, including a six-story building directly adjacent to the site and four additional six-story and seven-story buildings within close proximity to the site, each of

which is occupied by from 44 to 148 dwelling units; and

WHEREAS, the applicant notes that, in addition to having fewer dwelling units than the five afore-mentioned buildings, the proposed building also has less floor area and the second lowest FAR; and

WHEREAS, in response to the Opposition's concerns about (1) the building's bulk, number of dwelling units and compatibility with neighborhood character; and (2) the potential increase in traffic generated by the building's residents and at the Board's direction, the applicant reduced (i) the total height of the building from 70'-6" to 30'-0", (ii) reduced the number of proposed dwelling units from 40 to 24, and (iii) reduced the number of parking spaces from 63 to 37 (including three reservoir spaces); and

WHEREAS, at the Board's direction, the applicant also eliminated one of the parking levels and associated entrances to the site on Northern Boulevard to address concerns about traffic circulation and safety; and

WHEREAS, the applicant notes that 34 of the parking spaces will be attended and three will be reservoir spaces; the single entrance to the parking level will be approximately 140 feet from the intersection of Northern Boulevard and Douglaston Parkway; and

WHEREAS, the Board has determined that the reduced bulk (at 1.57 FAR), number of dwelling units and parking spaces reflects a design that is compatible with neighborhood character and is consistent with an R5 infill development, which permits an FAR of up to 1.65; and

WHEREAS, specifically, the final iteration provides for a front wall and total building height of 30 feet (34 feet including the parapet wall), which reflects a front wall height only five feet to nine feet in excess of the maximum permitted, and a total height that would be permitted but for the encroachment into the sky exposure plane; and

WHEREAS, the Board notes that the applicant will provide more than one parking space for each dwelling unit; and

WHEREAS, based upon the above, the Board finds that this action will neither alter the essential character of the surrounding neighborhood, nor impair the use or development of adjacent properties, nor be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the unique physical characteristics of the site; and

WHEREAS, as noted, the Board does not regard the contaminated soil condition to be a self-created hardship since it can be attributed to a legal non-conforming use at the site which predates modern environmental regulations; and

WHEREAS, the Board notes that the applicant initially claimed that additional floor area, height, dwelling units and parking spaces were required to overcome the hardship at the site; and

WHEREAS, the Board agrees that there is practical difficulty due to the unique conditions of the site, which require additional floor area and the other noted waivers, but disagrees that the initially proposed degree of FAR, height and dwelling count waivers were needed to make the building feasible; and

WHEREAS, as noted, the applicant revised the

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application to reduce the degree of floor area and FAR waivers, and to reflect the 1.57 FAR distributed appropriately on the site; and

WHEREAS, the Board notes that the applicant has significantly reduced the number of dwelling units from the 40 initially proposed to 24, reduced the total height from 70'-6" to 30'-0", and reduced the number of parking spaces from 63 to 37 (including three reservoir spaces); and

WHEREAS, the Board notes that the applicant also initially proposed two parking levels with two entrances; and

WHEREAS, the Opposition claims that the applicant has failed to submit evidence or advance any legal arguments as to why the two prior variances granted in 1938 (gasoline service station) and 1991 (three-story and penthouse office building) are no longer feasible as a minimum variance; and

WHEREAS, the applicant states that neither the previous grant for a gasoline service station, nor that for a three-story office building represent either a lesser development scenario or a minimum variance scenario, since each would be a more intense use of the property than the proposed development; and

WHEREAS, the Board agrees that the applicant has analyzed several lesser development scenarios in order to meet the minimum variance finding and that the two previous grants would analyze commercial developments that typically have greater impacts than multiple dwellings in residential neighborhoods; and

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

WHEREAS, the Opposition raised the following supplemental concerns: (1) that the number of Notices of Liability issued by the NYC Department of Transportation for driving infractions at the intersection reflects the hazardous nature of the intersection; (2) the economic analysis does not reflect that as-of-right development is infeasible, (3) the building will produce a significant traffic impact, (4) the site is not unique and the development is not compatible with neighborhood character, (5) single-family homes are located within a 1100 foot radii of the site, and (6) the contamination of the site constitutes a self-created hardship; and

WHEREAS, in response, the applicant states that: (1) violation information is inconclusive as there is no context for the number of infractions cited or their nature and no evidence substantiates the claim that the intersection is most dangerous; (2) the economic analysis reflects a loss for the as-of-right development; (3) the environmental analysis reflects that even the initial proposal for 40 dwelling units and 63 parking spaces would have no adverse impact on traffic conditions; (4) an aggregate of factors may create uniqueness (see Douglaston Civic Association v. Klein, 67 A.D.2d 54 (2d Dep't 1979), aff'd 51 N.Y.2d 963 (1980)) and the site's uniqueness was previously recognized in two prior variance cases, (5) the nearest single-family homes are located on interior neighborhood streets which are not comparable to the subject site's location on a more heavily trafficked thoroughfare, and (7) as noted, the Board acknowledges that the contamination of the site predates modern environmental regulations and is not deemed to be self-created; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA104Q, dated June 26, 2006; and

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

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

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

WHEREAS, a Restrictive Declaration was executed on February 18, 2007 and recorded on March 29, 2007 for the subject property to address hazardous materials concerns; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R1-2 zoning district, a proposed three-story residential building with 24 dwelling units and 34 accessory parking spaces (with three additional reservoir spaces), which is not a permitted use, exceeds the maximum permitted FAR, does not provide the required open space, front yard, or rear yard, encroaches into the sky exposure plane, and exceeds the maximum number of dwelling units, contrary to ZR §§ 22-12, 23-141, 23-45, 23-631, 23-47 and 23-22, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 15, 2008"– six (6) sheets and "Received September 3, 2008"– three (3) sheets; and *on further condition*:

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THAT the following shall be the bulk parameters of the building: a maximum of three stories, a maximum of 24 dwelling units, a total height and streetwall height of 30'-0", a floor area of 22,860 sq. ft. (1.57 FAR), front yards with minimum depths of 15'-0" and 10'-1 1/2", a rear yard depth of 15'-0", a minimum open space of 52 percent, and 34 parking spaces (with three reservoir spaces), as illustrated on the BSA-approved plans;

THAT the parking spaces shall be limited to accessory parking for the proposed residential development;

THAT the parking layout shall be as approved by DOB;

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

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

THAT construction shall be substantially completed in accordance with the requirements of ZR § 72-23; and

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

Adopted by the Board of Standards and Appeals, September 9, 2008.

39-08-BZ

CEQR #08-BSA-060R

APPLICANT – Eric Palatnik, P.C., for Kenbar Development, owner; Synergy Fitness, lessees.

SUBJECT – Application February 22, 2008 – Special Permit (§73-36) to legalize the operation of a Physical Culture Establishment on the first floor of the subject building. The proposal is contrary to §32-10. C2-1 district. PREMISES AFFECTED – 77 Richmond Hill Road, middle of the Ken-Bar Plaza shopping center on Richmond Hill Road, Block 2380, Lot 500, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated February 12, 2008, acting on Department of Buildings Application No. 510022878, reads in pertinent part:

“Proposed use of the premises for a health club facility (physical culture establishment) within an existing retail strip mall, is not permitted as-of-right in C2-1 district, and is contrary to Section 32-00 of Zoning Resolution”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C2-1 zoning district,

the legalization of a physical culture establishment (PCE) on the first floor of a one-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 17, 2008, after due notice by publication in *The City Record*, with a continued hearing on July 29, 2008 and then to decision on September 9, 2008; and

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

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

WHEREAS, the subject site is located on Richmond Hill Road at the Kenbar Plaza Shopping Center; and

WHEREAS, the PCE occupies a portion of the first floor of a one-story commercial building; the PCE occupies 8,580 sq. ft. of floor area; and

WHEREAS, the PCE is operated as Synergy Fitness; and

WHEREAS, the applicant represents that the services at the PCE include cardiovascular exercise machines, weight-training equipment, and group instruction; and

WHEREAS, the hours of operation are: Monday through Saturday, from 4:30 a.m. to 9:00 p.m.; Sunday, from 7:00 a.m. to 9:00 p.m.; and

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

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

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

WHEREAS, at hearing, the Board raised concerns with the apparent blocking of an exit by fitness equipment, as noted during two site visits; and

WHEREAS, the applicant submitted a photograph indicating that there is no longer an obstruction to egress from the exit; 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 Board notes that the PCE has been in operation since November 9, 2007, without a special permit; and

WHEREAS, accordingly, the Board has determined that the term of the grant shall be reduced for the period of time, between November 9, 2007 and the date of this grant, when the PCE operated without the special permit; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

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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.08BSA060R, dated May 29, 2008; and

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C2-1 zoning district, the legalization of a physical culture establishment in a one-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received September 9, 2008"- (4) sheets; and *on further condition*:

THAT the term of this grant shall expire on November 9, 2017;

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

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

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

THAT a Certificate of Occupancy shall be obtained within one year of the date of this grant, by September 9, 2009;

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

THAT the occupancy of the PCE shall be as reviewed and approved by DOB;

THAT DOB shall inspect and approve compliance with all conditions of this grant prior to the issuance of a Certificate of Occupancy;

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

DOB/other jurisdiction objection(s);

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

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

Adopted by the Board of Standards and Appeals, September 9, 2008.

11-07-BZ

APPLICANT – Dominick Salvati and Son Architects, for Joseph Giahn, owner.

SUBJECT – Application January 9, 2007 – Variance (§72-21) to allow a five (5) story office building with ground floor retail, contrary to use regulations (§22-00). R6B district.

PREMISES AFFECTED – 41-06 Junction Boulevard, south west corner formed by Junction Boulevard and 41st Avenue, Block 1598, Lots 7 & 8, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Peter Hirshman, Eliot Berpy and other.

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

245-07-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for Hawthorne Village, LLC, owner.

SUBJECT – Application October 30, 2007 – Variance (§72-21) to allow the residential conversion of an existing five-story industrial building. Proposed project will contain 147 dwelling units, ground floor retail space and 59 accessory parking spaces. Proposal is contrary to use regulations (§42-00). M1-2 district.

PREMISES AFFECTED – 220 Water Street, between Water and Bridge Streets, Block 41, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Chris Wright.

ACTION OF THE BOARD – Laid over to September 23, 2008, at 1:30 P.M., for deferred decision.

257-07-BZ

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

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

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(community facility lot coverage), and §24-54 (community facility tower coverage).

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

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Michael Phillips.

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 September 23, 2008, at 1:30 P.M., for decision, hearing closed.

35-08-BZ

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

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

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

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Ed Jaworski.

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

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikcchemny, owner.

SUBJECT – Application February 28, 2008 – Special Permit (§73-622) for the enlargement of an existing two family residence to be converted to a single family residence. This application seeks to vary floor area, lot coverage, open space 923-141(b)) and rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, corner of Girard Street and Oriental Boulevard, Block 8749, Lot 275, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Susan Klapper, Leslie Flug, Judith Baron and Ed Jaworski.

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

51-08-BZ

APPLICANT – Francis R. Angelino, Esq., for Sephardic Institute, owner.

SUBJECT – Application March 6, 2008 – Variance (§72-21) to permit the development of a new six-story & mezzanine synagogue. The proposal is contrary to ZR §24-11 (lot coverage, FAR, & open space), §24-382 (required rear yard equivalent), §24-522 and §23-633 (building height exceeding maximum permitted height & required front setback not provided.) R6A (Ocean Parkway Special Zoning District).

PREMISES AFFECTED – 511 Avenue R, Kings Highway and Ocean Parkway, Block 6681, Lot 394, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Francis R. Angelino, Joan Krevin, Harpert Dhaliwal and Hyman Mamiye.

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

61-08-BZ

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

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

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

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

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

158-08-BZ

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

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

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

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

For Opposition: Louis Goldberg, Anthony Gracebbie, Marvin K. and Ed Jaworski.

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

179-08-BZ

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

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

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

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Kenneth Barbina.

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

Jeff Mulligan, Executive Director

Adjourned: P.M.