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AND APPEALS

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49-09-BZ

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50-09-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

APRIL 21, 2009, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 21, 2009, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

5-98-BZ

APPLICANT – Maxfield Blaubeux & Heywood Balaubeux, for Priority Landscaping Incorporated, owner.

SUBJECT – Application March 13, 2009 – Extension of Term of a previously granted Variance (§72-21) for a garden supply sales and nursery establishment (UG17) with accessory parking and storage in an R5 zoning district which expired on February 23, 2009.

PREMISES AFFECTED – 1861 McDonald Avenue, east side 200' north of Quentin Road, Block 6633, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #15BK

209-04-BZ

APPLICANT – Joseph P. Morsellino, for Waterfront Resort, Incorporated, owner.

SUBJECT – Application March 23, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) to permit the conversion and enlargement of an existing industrial building to residential use in an M2-1 zoning district which expires on July 19, 2009.

PREMISES AFFECTED – 109-09 15th Avenue, northwest corner of 15th Avenue and 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

41-06-BZ

APPLICANT – Akerman Senterfitt Stadtmauer Bailkin, for New York Hospital Queens, owner.

SUBJECT – Application February 9, 2009 – Amendment of a previously approved variance (§72-21) which permitted, on a portion of the campus of New York Hospital, the construction of a underground parking structure with 372 accessory parking spaces. The application did not comply with the front and side yard requirements. (§§24-33 & 24-34). The current application seeks to legalize a 4'-8" open area along the side lot line within the C1-2 overlay which does not comply with §33-25 (Minimum Required Side Yards). The site is located in a R6/C1-2 zoning district.

PREMISES AFFECTED – 139-24 Booth Memorial Avenue, south side of Booth Memorial Avenue and West Side of 141st Street, Block 6401, Lot 19, Borough of Queens.

COMMUNITY BOARD #7Q

APPEALS CALENDAR

32-09-BZY thru 34-09-BZY

APPLICANT – William Alicea for Treadwell LLC, owner.
SUBJECT – Application February 27, 2009 – Extension of time to complete construction (11-332) and obtain a Certificate of Occupancy of a major development commenced prior to the text amendment of the zoning district regulations. R3A.

PREMISES AFFECTED – 122, 124 & 126 Treadwell Avenue, southwest corner of Treadwell Avenue and Harrison Avenue, Block 1088, Lot 49, Borough of Staten Island.

COMMUNITY BOARD #1SI

APRIL 21, 2009, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, April 21, 2009, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

260-08-BZ

APPLICANT – Eric Palatnik, for Moisei Tomshinsky, owner.

SUBJECT – Application October 21, 2008 – Special Permit (§73-622) for the In-Part Legalization and enlargement of a single family home. This application seeks to vary floor area (23-141) in an R3-1 zoning district.

PREMISES AFFECTED – 148 Oxford Street, between Shore Boulevard and Oriental Boulevard, Block 8757, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #15BK

268-08-BZ

APPLICANT – Sheldon Lobel, P.C., for 314 7th Avenue, LLC, owner.

SUBJECT – Application October 30, 2008 – Special Permit filed, pursuant to §73-621 of the New York City Zoning Resolution, to permit the enlargement of an as-of-right eating and drinking establishment (Use Group 6) into the footprint of an existing accessory parking garage of a mixed-use residential and commercial building. The subject site is located in a R6A/C1-4 zoning district.

PREMISES AFFECTED – 314 Seventh Avenue, southwest corner of the intersection formed by Eight Street and Seventh Avenue, Block 1006, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #6BK

CALENDAR

301-08-BZ

APPLICANT – Fridman Saks LLP, for 2717 Quentin Realty LLC, owner.

SUBJECT – Application December 10, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary floor area and lot coverage (23-141), side yard (23-461), perimeter wall height (23-631(b)) and less than the minimum rear yard (23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 2717 Quentin Road, between East 27th and East 28th Streets, Block 6790, Lot 32, Borough of Brooklyn.

COMMUNITY BOARD #15BK

16-09-BZ

APPLICANT – Slater & Beckerman, LLP, for The Devlin Building LLC, owner; Yoga Works, Inc., lessee.

SUBJECT – Application February 4, 2009 – Special Permit (§73-36) to allow a physical culture establishment on the second and third floors of an existing five-story building. The proposal is contrary to ZR Section 42-10. M1-5B district.

PREMISES AFFECTED – 459 Broadway, south west corner of Broadway and Grand Street, Block 231, Lot 30, Borough of Manhattan.

COMMUNITY BOARD #2M

42-09-BZ

APPLICANT – Francis R. Angelino, Esq., for Arrow Linen Supply Company, Inc., owner.

SUBJECT – Application March 6, 2009 – Special Permit filed pursuant to §§11-411 & 11-412 to permit a re-instatement of a variance which expired on July 12, 1992 which allowed the extension of a legal non conforming use within a residential zoning district. The application seeks an amendment to allow for a one-story enlargement of approximately 770 sq. ft. in the rear of the lot for additional storage for the commercial laundry. The subject site is located in a R5B zoning district

PREMISES AFFECTED – 441-477 Prospect Avenue, between Eight Avenue and Prospect Park West, Block 1113, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #7BK

Jeff Mulligan, Executive Director

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REGULAR MEETING TUESDAY MORNING, MARCH 31, 2009 10:00 A.M.

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

SPECIAL ORDER CALENDAR

1038-80-BZ

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

SUBJECT – Application February 5, 2009 – Extension of
Term of a Special Permit for the continued operation of a
UG15 Amusement Arcade (Smile Arcade) in an M2-1
zoning district which expired on January 6, 2009.

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

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Florence Lo.

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 term of a special permit, which expired on
January 6, 2009; and

WHEREAS, a public hearing was held on this
application on March 17, 2009 after due notice by publication
in *The City Record*, and then to March 31, 2009 for decision;
and

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

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

WHEREAS, on January 6, 1981, the Board granted a
special permit, under the subject calendar number, for the
operation of an amusement arcade on the subject premises; and

WHEREAS, on May 13, 1986, the special permit was
amended to increase the number of amusement arcade games
from 112 to 130; and

WHEREAS, subsequently, the term of the special permit
has been extended at various times; and

WHEREAS, most recently, on February 5, 2008, the
term was extended for one year from the expiration of the prior
grant, to expire on January 6, 2009; and

WHEREAS, the Board finds that the instant application

is appropriate to grant, based upon the evidence submitted.

Therefore it is Resolved that the Board of Standards and
Appeals *reopens* and *amends* the resolution, dated January 6,
1981, so that as amended this portion of the resolution shall
read: “to extend the term of the special permit for an additional
one (1) year from January 6, 2009, to expire on January 6,
2010; *on condition* that all conditions and drawings associated
with the previous grant remain in effect; and *on further*
condition:

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 there shall be no more than 130 amusement
games on the subject premises;

THAT the above conditions and all conditions from prior
resolutions shall appear on the certificate of occupancy;

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

THAT the 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 Alt. No. 435/81)

Adopted by the Board of Standards and Appeals, March
31, 2009.

316-73-BZ

APPLICANT – Vassalotti Associates Architects, for 31-02
68th Realty Corporation, owner.

SUBJECT – Application February 9, 2009 – Extension of
Term for the continued operation of a (UG16) Gasoline
Service Station (Husky) in an R4 zoning district which
expired on January 8, 2009.

PREMISES AFFECTED – 31-02 68th Street, south west
corner of 68th Street and 31st Avenue, Block 1138, Lot 27,
Borough of Queens.

COMMUNITY BOARD #3BX

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 21,
2009, at 10 A.M., for decision, hearing closed.

337-90-BZ

APPLICANT – Sheldon Lobel, P.C., for Giuseppe LaSorsa,
owner.

SUBJECT – Application November 10, 2008 – Extension of
Term/waiver for the continued operation of a one story
(UG16) Automotive Repair Shop and a two story (UG6)

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business and (UG2) dwelling unit on a portion of the site, which expired on June 2, 2002, in a C1-2/R4 zoning district and an Extension of Time/waiver to obtain a Certificate of Occupancy which expired on March 29, 1987.

PREMISES AFFECTED – 1415/17 East 92nd Street, northeast corner of East 92nd Street and Avenue L, Block 8238, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #18BK

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 April 21, 2009, at 10 A.M., for decision, hearing closed.

217-03-BZ

APPLICANT – Sheldon Lobel, P.C., for 140 Pennsylvania Avenue, LLC, owner.

SUBJECT – Application July 17, 2008 – Extension of Time to Complete Construction of a previously granted variance for the proposed expansion of a one story and cellar building in an R-5 zoning district.

PREMISES AFFECTED – 142 Pennsylvania Avenue, southeast corner of Pennsylvania Avenue and Liberty Avenue, Block 3703, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #5BK

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 April 21, 2009, at 10 A.M., for decision, hearing closed.

853-53-BZ

APPLICANT – Walter T. Gorman, P.E., for Knapp LLC, owner; ExxonMobil Corporation, lessee.

SUBJECT – Application March 4, 2009 – Extension of Time/waiver to obtain a Certificate of Occupancy for a Gasoline Service Station (Mobil) in a C-2/R3-2 which expired on January 22, 2009.

PREMISES AFFECTED – 2402/16 Knapp Street, south west corner of Avenue Z, Block 7429, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Cindy Bachan

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 28, 2009, at 10 A.M., for decision, hearing closed.

240-55-BZ

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

SUBJECT – Application March 11, 2009 – Extension of Time to complete construction of a second story addition (5,000sf) to an existing commercial building in a C2-2(R6B) & R4 zoning district which expired on February 13, 2009.

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

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Joseph P. Morsellino

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to April 28, 2009, at 10 A.M., for decision, hearing closed.

237-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Anthony Perez Cassino, owner.

SUBJECT – Application March 3, 2009 – Extension of Time to Complete Construction for a previously granted Variance (§72-21) to permit the proposed construction of a two family detached home on a vacant lot, which expired on February 8, 2009, in an R3-1 zoning district.

PREMISES AFFECTED – 5722 Faraday Avenue, southeast corner of Valles Avenue, Block 5853, Lot 2198, Borough of Bronx.

COMMUNITY BOARD #8BX

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 April 28, 2009, at 10 A.M., for decision, hearing closed.

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APPEALS CALENDAR

272-08-A

APPLICANT – Elizabeth Safian, Sheldon Lobel, P.C., for Brighton 2nd Place, LLC, owner.

SUBJECT – Application November 5, 2008 – Proposed construction of residential building not fronting on a legally mapped street contrary to General City Law Section 36. R6 Zoning District.

PREMISES AFFECTED – 35 Brighton 2nd Place, premises is located on the west side of Brighton 2nd Place approximately 120 feet north of Brighton 2nd Lane, Block 8662, Lots 230, 232, 234, Borough of Brooklyn.

COMMUNITY BOARD #13BK

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 April 21, 2009, at 10 A.M., for decision, hearing closed.

277-08-BZY thru 287-08-BZY

APPLICANT – Eric Palatnik, P.C., for Opal Builders, LLC, owner.

SUBJECT – Application November 19, 2008 – Extension of time to complete construction (11-332) and obtain a Certificate of Occupancy of a minor development commenced prior to the text amendment of the zoning district regulations. R3-X SSRD (Area LL).

PREMISES AFFECTED – 23, 26, 27, 35, 39, 43, 47, 55, 59, and 63 Opal Lane, bounded Idaho Avenue, Bloomingdale Road and Amboy Road, Block 6993, Lot 20, 4,19,18,17,16,15,14,12,11,10, Borough of Staten Island.

COMMUNITY BOARD #3SI

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 28, 2009, at 10 A.M., for decision, hearing closed.

307-08-BZY

APPLICANT – Howard Zipser, Akerman Senterfitt LLP, for 163 Orchard Street LLC, owner.

SUBJECT – Application December 17, 2008 – Extension of time to complete construction (§11-331) of a minor development commenced prior to the amendment of the zoning district regulations. C4-4A Zoning District.

PREMISES AFFECTED – 163 Orchard Street, through lot between Orchard and Houston Street between Stanton and

Rivington Street, Block 416, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Calvin Wong.

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 21, 2009, at 10 A.M., for decision, hearing closed.

27-09-BZY

APPLICANT – Bryan Cave, LLP, for 126 First Place, LLC, owner.

SUBJECT – Application February 17, 2009 – Extension of time to complete construction 11-332(b) and obtain a Certificate of Occupancy for a development commenced under the prior zoning district regulations. R6 Zoning district.

PREMISES AFFECTED – 126 First Place, south side of First Place, 300' east of intersection of First Place and Court Street, Block 459, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Frank Cheney.

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 21, 2009, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

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REGULAR MEETING TUESDAY AFTERNOON, MARCH 31, 2009 1:30 P.M.

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

ZONING CALENDAR

133-08-BZ

CEQR #08-BSA-086X

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

SUBJECT – Application April 25, 2008 – Special Permit
 (§§73-48 & 73-49) to allow rooftop parking above the first
 floor of an existing one and two-story commercial building
 and waive limitation on number of vehicles in a group
 parking facility, located in an M1-1 zoning district.

PREMISES AFFECTED – 1601 Bronxdale Avenue,
 northeast side of Bronxdale Avenue between Pierce and Van
 Nest Avenues, Block 4042, Lot 200, Borough of Bronx.

COMMUNITY BOARD #11BX

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 Bronx Deputy Borough
Commissioner, dated April 21, 2008, acting on Department of
Buildings Application No. 200306347, reads:

- “1. Proposed rooftop parking is contrary to ZR 44-
11 and requires a special permit pursuant to ZR
73-49.
2. Proposed accessory group parking facility is in
excess of 150 vehicles contrary to ZR 44-12 and
requires a special permit pursuant to ZR 73-48;”
and

WHEREAS, this is an application under ZR §§ 73-48,
73-49, and 73-03 to legalize rooftop parking above the first
floor of an existing one- and two-story commercial building
and to waive the limitation on the number of vehicles in a
group parking facility located in an M1-1 zoning district,
contrary to ZR §§ 44-11 and 44-12; and

WHEREAS, a public hearing was held on this
application on February 10, 2009 after due notice by
publication in the *City Record*, with a continued hearing on
March 17, 2009, and then to decision on March 31, 2009; and

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

WHEREAS, the site and surrounding area had site and

neighborhood examinations by Chair Srinivasan,
Commissioner Hinkson, and Commissioner Ottley-Brown;
and

WHEREAS, the subject site is located on the west side
of Bronxdale Avenue, 675 feet south of Van Nest Avenue,
within an M1-1 zoning district; and

WHEREAS, the site is occupied by a one- and two-
story mixed-use commercial/warehouse building; and

WHEREAS, on May 6, 1997, under BSA Cal. No. 37-
96-BZ, the Board granted a special permit pursuant to ZR § 73-
49, to permit rooftop parking immediately above the first floor
of an existing one- and two-story commercial building in an
M1-1 zoning district; and

WHEREAS, on September 30, 2003, under BSA Cal.
No. 37-96-BZ, the Board reopened and amended the resolution
to allow an increase in the number of spaces to 145, to
reconfigure the ramp leading to the parking level, and to extend
the time to complete construction to May 6, 2005; and

WHEREAS, the applicant states that the approval for
rooftop parking under BSA Cal. No. 37-96-BZ subsequently
lapsed due to the applicant’s failure to meet certain compliance
dates; and

WHEREAS, the applicant now proposes to legalize the
existing rooftop parking and to increase the number of parking
spaces to 197 located on the rooftop of the existing one-story
warehouse portion of the site; and

WHEREAS, in order to meet its needs, the applicant
seeks special permits pursuant to ZR §§ 73-48 and 73-49, to
permit rooftop parking for more than 150 vehicles; and

WHEREAS, pursuant to ZR § 73-482, the Board may
permit accessory group parking facilities with more than 150
spaces in commercial or manufacturing districts, provided the
facility has adequate reservoir space at the vehicular entrance
and that the streets providing access to such use will be
adequate to handle the traffic generated thereby; and

WHEREAS, the applicant represents that the proposed
parking facility has adequate reservoir space at the vehicular
entrance; and

WHEREAS, the Board notes that the applicant is
required to provide ten reservoir spaces to accommodate the
proposed 197 rooftop parking spaces; and

WHEREAS, the plans submitted by the applicant indicate
that the proposed parking facility provides ten reservoir spaces
at the vehicular entrance on Bronxdale Avenue; and

WHEREAS, the applicant represents that the streets
providing access to the proposed facility are adequate to handle
the traffic generated thereby; and

WHEREAS, the applicant states that the proposed
parking facility will be accessed by Bronxdale Avenue, just
north of the intersection with East Tremont Avenue; and

WHEREAS, the applicant further states that both
Bronxdale Avenue and East Tremont Avenue are major
regional roadways exceeding 100 feet in width with multiple
travel lanes in each direction that can easily accommodate
traffic generated by the facility; and

WHEREAS, the applicant notes that the proposed
parking facility is not a public parking garage and represents
that the proposal will create no demand for additional parking

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because it seeks only to provide additional on-site accessory parking for the building's existing uses; and

WHEREAS, therefore, the applicant states that the proposed parking facility will actually improve street congestion by providing additional off-street parking spaces; and

WHEREAS, based upon the above, the Board concludes that the findings required under ZR § 73-48 have been met; and

WHEREAS, pursuant to ZR § 73-49, the Board may permit parking spaces to be located on the roof of a building in an M1-1 zoning district if the Board finds that the parking is located so as not to impair the essential character or the future use or development of the adjacent areas; and

WHEREAS, the applicant represents that the rooftop parking will not impair the essential character or future use or development of adjacent areas; and

WHEREAS, the applicant notes that the rooftop parking is located on the top of the existing one-story warehouse portion of the site; and

WHEREAS, the applicant submitted a 200-foot radius diagram indicating that the property immediately to the north and west of the subject site is improved with several two-story industrial buildings, and that all the surrounding lots with frontage on the east side of Bronxdale Avenue are improved with one-story transportation-related or commercial uses; and

WHEREAS, the applicant represents that, although there are two residential buildings located just east of the subject site, they are shielded from the proposed rooftop parking facility by the two-story portion of the subject building which fronts Bronxdale Avenue; and

WHEREAS, the applicant further represents that, because the rooftop parking facility is located behind the two-story portion of the building, the other uses on Bronxdale Avenue are also screened from the parking facility; and

WHEREAS, at hearing, the Board requested that the applicant establish that it has an easement for a proposed parking ramp; and

WHEREAS, in response, the applicant submitted an Easement Agreement between Consolidated Edison Company of New York and Pilot Realty Co., dated July 9, 2003 and recorded on March 14, 2006, granting Pilot Realty Co. a permanent easement for pedestrian and vehicular ingress and egress over the portion of the premises in which the parking ramp is proposed; and

WHEREAS, at hearing, the Board raised concerns about the ability of the roof structure to support the proposed parking use; and

WHEREAS, in response, the applicant submitted a letter from a structural engineer, dated February 27, 2009, which concludes that the roof structure is adequate to support the proposed passenger car parking deck; and

WHEREAS, based upon the above, the Board concludes that the findings required under ZR § 73-49 have been met; 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, the proposed project will not interfere with any pending public improvement project; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 08-BSA-086X, dated January 5, 2009; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals makes each and every one of the required findings application under ZR §§ 73-48, 73-49, and 73-03 to legalize rooftop parking above the first floor of an existing one and two-story commercial building and to waive the limitation on the number of vehicles in a group parking facility located in an M1-1 zoning district, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 3, 2009"-six (6) sheets; and *on further condition*:

THAT the parking facility shall be limited to 197 parking spaces with 10 reservoir spaces;

THAT DOB shall review and confirm the structural capacity of the building to support the rooftop parking;

THAT substantial construction shall be completed in accordance within two years of the date of this resolution;

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, March 31, 2009.

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206-08-BZ

CEQR #09-BSA-015Q

APPLICANT – Eric Palatnik, P.C., for Paul Chait, owner.
SUBJECT – Application November 18, 2008 – Variance (§72-21) to permit the expansion of an existing three-story Use Group 3 yeshiva which includes sleeping accommodations. The proposal is contrary to ZR §24-111 (maximum floor area), §24-35 (side yard), §24-551 (side yard setback), and parking (§25-31). R2X zoning district.
PREMISES AFFECTED – 737 Elvira Avenue, southern side of Elvira Avenue, between Reads Lane and Annapolis Street, Block 15578, Lot 8, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition

THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Superintendent dated December 12, 2008, acting on Department of Buildings Application No. 410052133, reads in pertinent part;

- “1. Proposed plans are contrary to ZR 24-111 in that the proposed Floor Area Ratio (FAR) exceeds the permitted;
2. Proposed plans are contrary to ZR 24-35 in that minimum side yard is less than the required minimum of 8’-0”;
3. Proposed plans are contrary to ZR 24-36 in that the proposed rear yard is less than required 30’-0”;
4. Proposed plans are contrary to ZR 24-551 in that the proposed side yard setback is less than required 17’-6”;
5. Proposed plans are contrary to ZR 25-31 in that the proposed parking is less than required;” and

WHEREAS, this is an application under ZR § 72-21 to permit, on a site within an R2X zoning district, the legalization and enlargement of a three-story Use Group 3 yeshiva building with sleeping accommodations and an accessory synagogue which does not comply with regulations for FAR, rear yard, side yard, side yard setback, and parking, contrary to ZR §§ 24-111, 24-35, 24-36, 24-551 and 25-31; and

WHEREAS, the application is brought on behalf of Yeshiva B’nei Torah (the “Yeshiva”), a nonprofit religious educational institution; and

WHEREAS, a public hearing was held on this application on December 15, 2008, after due notice by publication in The City Record, with continued hearings on January 27, 2009 and February 24, 2009 and then to decision March 31, 2009; and

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

WHEREAS, Community Board 14, Queens, recommends approval of this application; and

WHEREAS, Council Member David I. Weprin submitted testimony recommending approval of the application; and

WHEREAS, the West Lawrence Civic Association submitted testimony recommending approval of the application; and

WHEREAS, the applicant submitted a petition with the signatures of 85 neighborhood residents recommending approval of the application; and

WHEREAS, other neighborhood residents submitted oral testimony in opposition to the application (the “Opposition”), citing concerns with the bulk of the building, traffic, and parking; and

WHEREAS, the subject site is located on the south side of Elvira Avenue between Reads Lane and Annapolis Street, with approximately 61’-0” of frontage on Elvira Avenue and a depth of approximately 138’-0”;

WHEREAS, the subject site has a lot area of approximately 7,803 sq. ft.; and

WHEREAS, the site is occupied by a two-story and attic building housing a yeshiva with approximately 4,886 sq. ft. of floor area; and

WHEREAS, the proposal seeks to enlarge the existing building to provide a three story and cellar yeshiva with the following parameters: (i) an FAR of 0.95 (0.85 is the maximum permitted); (ii) a rear yard below the second floor of between 21’-6” and 14’-1” (a rear yard of 30’-0” is required for a community facility use); (iii) a 4’-11 side yard (8’-0” is the minimum required); (iii) a side yard setback of 4’-3” (a 17’-6” setback is the minimum required); and (iv) no parking (29 spaces are required); and

WHEREAS, the proposed enlargement will add 2,496 sq. ft. of floor area for a total floor area of 7,382 sq. ft. (FAR of 0.95); and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Yeshiva: (1) to provide adequate classroom and study space for 45 students; (2) to provide sleeping accommodations for 19 students; and (3) to provide worship space for its existing 284 congregants; and

WHEREAS, in order to meet its programmatic needs, the applicant seeks a variance pursuant to ZR § 72-21; and

WHEREAS, the applicant represents that the FAR, rear yard, side yard, side yard setback and parking waivers are necessary to provide the program space necessary to adequately serve its current student body and to provide sufficient synagogue space; and

WHEREAS, the existing building is currently occupied by a small synagogue/classroom, three studies, eight dormitory rooms, two kitchens and offices; and

WHEREAS, the instant application seeks to increase the size of the synagogue/ classroom and dormitory rooms and to add an additional dormitory room, computer room, lunch room, and multi-purpose room; and

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WHEREAS, the applicant represents that without the waivers, the Yeshiva would continue to have inadequate classroom and dormitory space for its students, and a synagogue that cannot accommodate its congregation; and

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

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

WHEREAS, accordingly, based upon the above, the Board finds that the limitations of the Yeshiva's current facility, when considered in conjunction with the programmatic needs of the Yeshiva, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the Yeshiva is a non-profit religious 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, a 400-foot radius diagram submitted by the applicant indicates that the surrounding area is characterized predominately by one- and two-story residential uses; and

WHEREAS, the applicant represents that the enlargement has been designed to maintain the residential character of the existing building; and

WHEREAS, the applicant notes that the recent rezoning of the subject district from R2 to R2X permits greater bulk than was formerly permitted; and

WHEREAS, neighborhood residents testified as to concerns with traffic and parking impacts; and

WHEREAS, the applicant represents that parking demand by Yeshiva students would be limited, as 16 of the 45 students will reside on-site and that no more than 10 of the 20 students who drive to the site will need parking at the same time of day; and

WHEREAS, the applicant represents that parking demand by congregants would be limited to morning services attracting an average of ten members daily, evening services attracting five congregants and holiday services attracting approximately 15 members and guests; and

WHEREAS, the applicant represents that traffic and parking demand would also be minimal as congregants are close enough to walk to services and are not permitted to

drive to worship on religious holidays, Fridays, or Saturdays – the synagogue's peak usage periods; and

WHEREAS, a submission by the applicant indicates that approximately 85 percent of the congregants live within three-quarters of a mile from the premises; and

WHEREAS, the applicant initially stated 73 parking spaces were available within a one-block radius of the subject site; and

WHEREAS, the Board directed the applicant to provide a traffic study that evaluated parking availability on the streets in which demand from the Yeshiva would be most likely to conflict with that of neighboring homeowners; and

WHEREAS, a parking study submitted by the applicant indicated that a total of 73 on-street parking spaces are located within one block of the Yeshiva, of which 53 spaces were available between 4:20 p.m. and 4:40 p.m. on a representative weekday afternoon; and

WHEREAS, the applicant further represents that the number of available on-street parking spaces far exceeds the expected demand by yeshiva students and synagogue congregants; and

WHEREAS, at hearing, neighborhood residents raised concerns with the impact of the proposed building on light and air, specifically regarding the proposed encroachment into the rear yard, initially proposed at an irregular depth of 8'-1" to 15'-6"; and

WHEREAS, in response, the Board directed the applicant to reduce the encroachment in the rear yard; and

WHEREAS, in response, the applicant submitted revised plans indicating a rear yard of 21'-6" to 14'-1" at grade and a rear yard of 58'-4" to 50'-11" above the first floor; and

WHEREAS, the Board further notes that the required rear yard for a complying residential use would be no more than 20'-0"; and

WHEREAS, the Board also asked the applicant to investigate whether it was possible to reduce the height of the rear yard encroachment by reducing the apex of the synagogue wing of the proposed building; and

WHEREAS, in response, the applicant explained that the proposed pitched roofline was necessary to provide an appropriate worship space and to allow the Ark to be visible from all points in the sanctuary; and

WHEREAS, the applicant submitted interior elevation plans demonstrating the necessity for a higher elevation; and

WHEREAS, the Board notes that the proposed FAR of 0.95 represents no more than a modest increase in the permitted FAR of 0.85; and

WHEREAS, the Board notes that the front yard and side yard along the western lot line comply with the parameters of the subject R2X zoning district; 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 hardship herein was not created by

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the owner or a predecessor in title; and

WHEREAS, the applicant proposes waivers to the rear yard, side yard, side yard setback and FAR, to accommodate the required floor area given the constraints of the existing building and the programmatic needs of the Yeshiva; and

WHEREAS, the Board notes that the applicant initially requested an FAR of 1.0, which was subsequently reduced during the hearing process by the reduction in the rear yard encroachment to a proposed FAR of 0.95; and

WHEREAS, the Board further notes that the proposed FAR of 0.95 represents no more than a modest increase in the permitted FAR of 0.85; and

WHEREAS, evidence in the record demonstrates that this proposal is the minimum necessary to meet the programmatic needs of the Yeshiva; 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 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 Final Environmental Assessment Statement, CEQR No.09BSA015Q, dated November 12, 2008; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site within an R2X zoning district, the legalization and enlargement of a three-story Use Group 3 yeshiva building with sleeping accommodations which does not comply with regulations for FAR, rear yard, side yard, side yard setback, and parking, contrary to ZR §§ 24-111, 24-35, 24-36, 24-551 and 25-31, on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received February 19, 2009"- (7) sheets and "March 12, 2009"- (6) sheets and on further condition;

THAT the building parameters shall be: an FAR of 0.95; a rear yard of 21'-6" to 14'-1" below the first floor, a 4'-11" side yard; and a side yard setback of 4'-3"; as shown on the BSA-approved plans; and

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

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

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

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

Adopted by the Board of Standards and Appeals, March 31, 2009.

230-08-BZ

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

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

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

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Application granted on condition

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated August 7, 2008, acting on Department of Buildings Application No. 310275528, reads:

"Rear Yard: Proposed rear yard is creating a new non-complying rear yard.

Floor Area: Floor area exceeds the maximum permitted, the enlargement creates a new non-compliance or increases the degree of non-compliance of the building.

Open Space: Proposed open space ratio is contrary to ZR 23-141;" and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area,

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open space ratio, and rear yards, contrary to Z.R. §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on November 18, 2008 after due notice by publication in *The City Record*, with a continued hearing on March 17, 2009, and then to decision on March 31, 2009; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of East 23rd Street, between Avenue J and Avenue K, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,500 sq. ft., and is occupied by a single-family home with a floor area of approximately 3,014 sq. ft. (0.67 FAR); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from approximately 3,014 sq. ft. (0.67 FAR) to approximately 4,608 sq. ft. (1.02 FAR); the maximum floor area permitted is 2,250 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of approximately 57 percent (150 percent is the minimum required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20'-0" (a minimum rear yard of 30'-0" is required); and

WHEREAS, at hearing, the Board questioned which portions of the original home were being retained; and

WHEREAS, in response, the applicant submitted revised plans showing the portions of the existing home that are being retained; and

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

WHEREAS, the Board finds that the proposed project 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 findings required to be made under ZR §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R.

§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, and rear yards, contrary to Z.R. §§ 23-141, 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received March 3, 2009"-(11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of approximately 4,608 sq. ft. (1.02 FAR); an open space ratio of approximately 57 percent; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

THAT DOB shall review and approve compliance with the planting requirements under ZR § 23-451;

THAT DOB shall confirm that the portions of the existing building shall be retained as illustrated on the BSA-approved plans; and

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

THAT substantial construction be completed in accordance with ZR § 73-70; 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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 31, 2009.

3-09-BZ

CEQR #09-BSA-059X

APPLICANT – Duane Morris LLP, by Jon Popin, for Lutheran Social Services of Metropolitan New York, Inc., owner.

SUBJECT – Application January 8, 2009 – Special Permit (§73-19) to allow the conversion of an existing two-story warehouse into a high school with sleeping accommodations. The proposal is contrary to the use requirements of the underlying M1-1 district.

PREMISES AFFECTED – 831 Eagle Avenue, East Avenue, Eagle 159th Street, St. Anns Avenue, East 161st Street, Block 2619, Lot 27, Borough of Bronx.

COMMUNITY BOARD #1BX

APPEARANCES –

For Applicant: John Poppin.

ACTION OF THE BOARD – Application granted on condition

THE VOTE TO GRANT –

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

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Commissioner Montanez.....5
Negative:.....0
THE RESOLUTION:

WHEREAS, the decision of the Bronx Borough Commissioner, dated February 17, 2009, acting on Department of Buildings Application No. 210055063, reads in pertinent part:

“In an M-1 district a special permit by the Board of Standards and Appeals may be granted to a school having no residential accommodations as per Section 73-19 of the Zoning Resolution;” and

WHEREAS, this is an application under ZR §§ 73-19 and 73-03 to permit, on a site within an M1-1 zoning district, the proposed operation of a non-public high school for students with disabilities (Use Group 3), contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on March 17, 2009, after due notice by publication in the *City Record*, and then to decision on March 31, 2009; 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 1, Bronx, recommends approval of this application; and

WHEREAS, certain residents of the community provided written and oral testimony in opposition to the application; and

WHEREAS, the application is brought on behalf of Lutheran Social Services of Metropolitan New York, Inc., a not-for-profit institution, and will be operated by The New LIFE School, Inc. (“The New LIFE School”), an affiliate of the applicant; and

WHEREAS, the site is located on the west side of Eagle Avenue between East 159th Street and East 161st Street, in an M1-1 zoning district; and

WHEREAS, the site has a lot area of 16,480 sq. ft.; and

WHEREAS, the site is currently occupied by a vacant two-story warehouse building; and

WHEREAS, the applicant proposes to renovate the existing building for use as a non-public high school (Use Group 3) with a floor area of 32,559 sq. ft.; and

WHEREAS, the applicant states that The New LIFE School will service high school students needing non-public school placement and services due to an extensive range of severe handicapping emotional, behavioral, academic and vocational conditions; and

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

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

WHEREAS, the applicant states that the proposed

building will serve an estimated 150 students from ninth through 12th grade in year one, and is anticipated to reach its full capacity of 265 students by year three; and

WHEREAS, the School’s program includes 19 traditional classrooms, a band room, computer room, cafeteria, art room, library and media center, gymnasium and fitness center, special therapy rooms, and administrative offices; and

WHEREAS, the applicant states that The New LIFE School’s program requires a two-story building with a floor area of at least 30,000 sq. ft. and a flexible floor plate configuration; and

WHEREAS, the applicant represents that the program of The New LIFE School also requires high ceilings and column free space to locate an indoor gymnasium and fitness center, and concrete covered steel framing able to support a potential roof-top enlargement for additional recreational space; and

WHEREAS, the applicant further represents that close proximity to multiple sources of public transportation is necessary to accommodate The New LIFE School’s program; and

WHEREAS, the applicant states that The New Life School has an additional programmatic need to be located in the South Bronx; and

WHEREAS, the applicant further states that the Bronx is the only borough in New York City without a program servicing high school students with such disabilities in a non-public school setting; and

WHEREAS, the applicant represents that, although students referred out of the public school system due to behavioral and learning disabilities are able to attend any non-public school in the City of New York, these students typically enroll in schools closest to their homes; and

WHEREAS, the applicant further states that because the majority of the students are anticipated to live in the South Bronx, it conducted a 12-month search for a suitable location for the school in that borough; and

WHEREAS, the applicant states that it evaluated the feasibility of six Bronx buildings, including 731 E. 133rd Street, 105 Bruckner Boulevard, 327 Rider Avenue, 1923-1925 West Farms Road and 1905 West Farms Road, and that each of the aforementioned buildings was found to be either geographically remote and not readily accessible by public transportation, structurally unsuitable, or economically infeasible; and

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

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

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

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

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school is permitted as of right; and

WHEREAS, the applicant submitted a land use map which reflects that the eastern lot line of the subject site abuts Eagle Avenue, which forms the western border of the adjacent R6 zoning district where the proposed use would be permitted as-of-right; and

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

WHEREAS, ZR § 73-19 (c) requires an applicant to demonstrate how it will achieve adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district; and

WHEREAS, the applicant represents that, although the site is within an M1-1 zoning district, the surrounding area is largely developed with residential and commercial uses which are compatible with the proposed school; and

WHEREAS, the applicant further represents that there are no industrial emission sources among the uses in the surrounding area; and

WHEREAS, the applicant states that the east side of the subject site adjoins an R6 zoning district and fronts a series of three-story multi-family apartment buildings, and that the area directly south of 159th Street was recently rezoned to an R7X district; and

WHEREAS, the applicant represents that, while there are semi-industrial uses on the St. Ann's Avenue frontage of the subject site, a 70-foot slope between the west side of Eagle Avenue and the east side of St. Ann's Avenue creates a vertical separation between the subject site and the semi-industrial uses; and

WHEREAS, the applicant states that adequate separation from noise, traffic and other adverse effects of the surrounding M1-1 zoning district will also be provided through the building's existing solid masonry exterior walls and the use of double-glazed windows; and

WHEREAS, the applicant represents that there will be little traffic entering Eagle Avenue near the subject site because the site fronts upon a lightly traveled one-way street; and

WHEREAS, the applicant further represents that the closure of the intersecting street directly to the south of the site (159th Street) and the fact that the intersecting street directly to the north of the site (161st Street) crosses underneath Eagle Avenue, further limits traffic entering Eagle Avenue near the subject site; and

WHEREAS, the Board finds that the conditions surrounding the site, the construction of the building, and the installation of double-glazed windows will adequately separate the school from noise, traffic and other adverse effects of any of the uses within the surrounding M1-1 zoning district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

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

WHEREAS, although the school's hours of operation have not yet been established, the applicant represents that

school hours will begin no earlier than 8:30 a.m. and end no later than 3:30 p.m., Monday through Friday; and

WHEREAS, the applicant states that approximately one-third of the students are anticipated to arrive to the school using 16-passenger mini-buses provided by the New York City Department of Education ("DOE"); and

WHEREAS, the applicant represents that, at maximum enrollment, it is anticipated that eight to ten mini-buses will be required to pickup and drop-off students; and

WHEREAS, the applicant further represents that the school bus pick-up and drop-off area will be located directly in front of the site, on the west side of Eagle Avenue; and

WHEREAS, the applicant further represents that students will be closely supervised by school staff during pickup and drop-off times and while entering the school's main entrance on the south end of the building; and

WHEREAS, the applicant represents that the remainder of students are anticipated to travel to the school by public transportation, as learning to travel by public transportation will be encouraged as a vocational training goal; and

WHEREAS, the applicant states that the flow of traffic near the site will be further controlled because public schools are currently located one block from the subject site in either direction, at the intersections of Eagle Avenue and East 159th Street and Eagle Avenue and East 163rd Street, and each of the public schools have DOE required school safety measures installed on Eagle Avenue; and

WHEREAS, specifically, the applicant states that a speed bump and speed bump signage is located on Eagle Avenue near 163rd Street, and a school crossing sign is located on Eagle Avenue near 159th Street; and

WHEREAS, the Board referred the application to the School Safety Engineering Office of the Department of Transportation ("DOT"); and

WHEREAS, by letter dated February 26, 2009, DOT states that it has no objection to the proposed school; and

WHEREAS, by correspondence dated March 17, 2009, DOT states that the existing "No Parking Anytime" signage in front of the subject site on the west side of Eagle Avenue sufficiently permits expeditious school bus loading and unloading; and

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 09BSA059X, dated March 27, 2009; and

WHEREAS, the EAS documents that the proposed

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

WHEREAS, the New York City Department of Environmental Protection (“DEP”) Office of Environmental Planning and Assessment has evaluated the following submissions from the Applicant: (1) a January 2009 Environmental Assessment Statement; (2) a February 2008 Phase I Environmental Site Assessment; and (3) a January 2009 Phase II Workplan and Subsurface Investigation Report; and

WHEREAS, the applicant has agreed to implement hazardous materials remediation required by a March 20, 2009 revised Remedial Action Plan (“RAP”), pursuant to a Restrictive Declaration executed on March 26, 2009 and submitted to be recorded against the subject property on March 30, 2009; and

WHEREAS, after approval of the executed Restrictive Declaration and the revised RAP, DEP will remit a Notice to Proceed to the Department of Buildings (“DOB”); and

WHEREAS, after implementation of the RAP, one or more Remedial Closure Report(s) certified by a professional engineer must be submitted to DEP; subsequent to its approval, DEP will forward Notice(s) of Satisfaction to DOB; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow the proposed operation of a school (Use Group 3), on a site within an M1-1 zoning district; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received January 8, 2009” (2) sheets, and “Received March 27, 2009” (5) sheets and *on further condition*:

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

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

THAT the issuance of building permits shall be

conditioned on the submission of a DEP Notice to Proceed;

THAT issuance of a permanent certificate of occupancy shall be conditioned on the issuance by DEP of a Notice of Satisfaction;

THAT sound-attenuating double-glazed windows, achieving a minimum of 25 dBA noise attenuation, shall be installed and maintained to limit the noise level from the surrounding M1-1 zoning district; and

THAT substantial construction be completed in accordance with ZR § 73-70;

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

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

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

Adopted by the Board of Standards and Appeals, March 31, 2009.

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: Mark McCarthy.

ACTION OF THE BOARD – Laid over to May 19, 2009, at 1:30 P.M., for an adjourned hearing.

63-08-BZ

APPLICANT – Eric Palatnik for Royal Palace, lessee. Manton Holding , owner

SUBJECT – Application March 27, 2008 – Special Permit (§73-244) to legalize an eating and drinking establishment with entertainment and a capacity of more than 200 persons with dancing within a C4-2 zoning district.

PREMISES AFFECTED – 116-33 Queens Boulevard, Between 77th and 78th Avenues, Block 2268, Lot 23, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Eric Palatnik, Darya Kulyk and Hiram Rothkrug.

For Opposition: Eric Goidel, Charlotte Picot, Carole Keit, James Messemer, Amelia M.Clancy and Nancy Jorisim

ACTION OF THE BOARD – Laid over to May 19,

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2009, at 1:30 P.M., for continued hearing.

229-08-BZ

APPLICANT – Sheldon Lobel, P.C. for Edward Haddad, owner.

SUBJECT – Application September 3, 2008 – Variance (§72-21) for the construction of a new single family home. This applications seeks to vary floor area (§23-141), less than the minimum side yards (§23-461) and the location of the required off street parking to the front yard (§25-62) in an R2X zoning district.

PREMISES AFFECTED – 866 East 8th Street, West side of East 8th Street, north of Avenue I, and adjacent to railroad, Block 6510, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to April 28, 2009, at 1:30 P.M., for continued hearing.

222-07-BZ

APPLICANT – Stuart A. Klein, Esq., for Century Realty Corp./Randall Co. LLC., owner.

SUBJECT – Application September 27, 2007 – Variance pursuant to §72-21 to legalize residential uses on the second and third floor of an existing building. M1-6 District.

PREMISES AFFECTED – 110 West 26th Street, between Sixth Avenue and Seventh Avenue, Block 801, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Abby L. Paterson.

ACTION OF THE BOARD – Laid over to April 28, 2009, at 1:30 P.M., for continued hearing.

246-08-BZ

APPLICANT – Slater & Beckerman, LLP, for St. Barnabas Hospital, owner.

SUBJECT – Application October 3, 2008 – Special Permits pursuant to §73-481 and 73-49 to allow for the construction of a five story parking garage and rooftop parking and Variance pursuant to 72-21to allow for an accessory sign contrary to §22-331 and 22-342. R7-1 District.

PREMISES AFFECTED – 4400 Third Avenue, block bounded by Third Avenue and East 184th Street, Quarry Road, and East 181st Street, Block 3064, Lot 1, 20 tent 100, Borough of The Bronx.

COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Carole Slater, Neil Weisband, Rodrigo Torres, John DiGirolomo and Ted Mallin.

ACTION OF THE BOARD – Laid over to April 28, 2009, at 1:30 P.M., for continued hearing.

247-08-BZ

APPLICANT – Howard S. Weiss, Esq., for Davidoff Malito, for 3454 Star Nostrand LLC, owner.

SUBJECT – Application October 6, 2008 – Special Permit filed pursuant to §73-243 to allow the operation of a accessory drive-through facility in connection with a planned as-of-right eating and drinking establishment (Starbucks Coffeeshouse) (Use Group 6) located in a C1-2/R4 zoning district.

PREMISES AFFECTED – 3454 Nostrand Avenue and approx. 49’ along Gravesend Neck Road, Block 7362, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Howard S. Weiss, Ron Mandell and Jim Himmon.

ACTION OF THE BOARD – Laid over to April 21, 2009, at 1:30 P.M., for continued hearing.

266-08-BZ

APPLICANT – Lewis E. Garfinkel R.A., for Harold Willig, owner.

SUBJECT – Application October 28, 2008 – Special Permit (§73-621) for the enlargement of an existing single family home. This application seeks to vary 34-141(b) as the proposed floor area ratio (FAR) exceeds what is permitted in an R-4 zoning district.

PREMISES AFFECTED – 2007 New York Avenue, east side of New York Avenue between Avenue K and Avenue L, Block 7633, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Lewis E. Garfinkel.

ACTION OF THE BOARD – Laid over to April 28, 2009, at 1:30 P.M., for continued hearing.

26-09-BZ & 48-09-A

APPLICANT – Sheldon Lobel, P.C., for CAMBA Housing Ventures, Inc., owner.

SUBJECT – Application February 17, 2009 – Variance (§72-21) to permit the construction of a nine-story community facility building. The proposal is contrary to ZR section 24-36. R7-1 district. Waiver of Section 36 of the General City Law to permit the construction of a building without the 30-foot turnaround frontage space.

PREMISES AFFECTED – 97 Crooke Avenue, north side of Crooke Avenue, 164’ west of Ocean Avenue, Block 5059, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel, Nkiruka Nwokoye, William Stein and Joanne Oplustic.

For Opposition: Ama .., Roslyn Daisley and Mark Peterson.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins,

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Commissioner Ottley-Brown, Commissioner Hinkson and
Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to May 12,
2009, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.