
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

Commissioners

Jeffrey Mulligan, *Executive Director*

Roy Starrin, *Deputy Director*

Becca Kelly, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

CONTENTS

DOCKET	649/650
CALENDAR of November 10, 2009	
Morning	651
Afternoon	651/652

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, October 20, 2009**

Morning Calendar653

Affecting Calendar Numbers:

191-53-BZ	42-02/18 Queens Boulevard, Queens
613-74-BZ	1095 Avenue of the Americas, Manhattan
590-76-BZ	243 East 59 th Street, Manhattan
194-97-BZ	84-12 164 th Street, Queens
272-07-BZ	344 Amsterdam Avenue, Manhattan
115-53-BZ	252-02 Union Turnpike, Queens
1715-61-BZ	129-02 Guy R. Brewer Boulevard, Queens
1038-80-BZ	31-07/09/11 Downing Street, Queens
1016-86-BZ	2162-2166 Broadway, Manhattan
311-04-BZ	380 Lighthouse Avenue, Staten Island
197-05-BZ	813/815 Broadway, Manhattan
140-08-BZY	1016 East 13 th Street, Brooklyn
233-09-BZY	91-12 175 th Street, Queens
178-09-A	120 St. Marks Place, Manhattan
147-07-BZY	144 North 8 th Street, Brooklyn
249-09-A	363 Lafayette Street, Manhattan

Afternoon Calendar661

Affecting Calendar Numbers:

210-08-BZ	130-15 89 th Road, Queens
297-08-BZ	3496 Bedford Avenue, Brooklyn
183-09-BZ	1400 5 th Avenue, Manhattan
63-08-BZ	116-33 Queens Boulevard, Queens
254-08-BZ	1214 East 15 th Street, Brooklyn
37-09-BZ	3950 Bedford Avenue, Brooklyn
54-09-BZ	150 Mercer Street, Manhattan
56-09-BZ	6736 Hylan Boulevard, Staten Island
180-09-BZ	1735 Richmond Avenue, Staten Island
187-09-BZ	94 Amherst Street, Brooklyn
198-09-BZ	143 West 19 th Street, Manhattan

DOCKETS

New Case Filed Up to October 20, 2009

281-09-BZ

246 Spring Street, Spring Street, Sixth Avenue, Dominick Street, Varick Street, Block 491, Lot(s) 34-36, Borough of **Manhattan, Community Board: 2**. Special Permit (73-36) to allow the operation of a physical culture establishment. M1-6 district.

282-09-BZ

54-19 Myrtle Avenue, Northeast corner of Myrtle Avenue., Block 3445, Lot(s) 009, Borough of **Queens, Community Board: 5**. Special Permit (73-36) to legalize the operation of a physical culture establishment. C4-3 district.

283-09-BZY

90-18 176th Street, Between Jamaica and 90th Avenues, Block 9811, Lot(s) 60 (tent), Borough of **Queens, Community Board: 12**. Extension of Time (11-332) to complete construction under the prior zoning. R4-1 district.

284-09-BZY

175-19 Lauren Court, Between Jamaica and 90th Avenues., Block 9811, Lot(s) 160 (tent), Borough of **Queens, Community Board: 12**. Extension of Time (11-332) to complete construction under the prior zoning. R4-1 district.

285-09-BZY

175-21 Lauren Court, Between Jamaica and 90th Avenues, Block 9811, Lot(s) 161 (tent), Borough of **Queens, Community Board: 12**. Extension of Time (11-332) to complete construction under the prior zoning. R4-1 district.

286-09-BZY

175-23 Lauren Court, Between Jamaica and 90th Avenues, Block 9811, Lot(s) 162 (tent), Borough of **Queens, Community Board: 12**. Extension of Time (11-332) to complete construction under the prior zoning. R4-1 district.

287-09-BZY

87-85 144th Street, East side of 144th Street between Hillside Avenue and 88th Avenue., Block 9689, Lot(s) 6, Borough of **Queens, Community Board: 12**. Extension of Time (11-332) to complete construction under the prior zoning district. R5 district.

288-09-BZY

87-87 144th Street, East side of 144th Street between Hillside Avenue and 88th Avenue., Block 9689, Lot(s) 7, Borough of **Queens, Community Board: 12**. Extension of Time (11-332) to complete construction under the prior zoning district. R5 district.

289-09-BZ

3295 Amboy Road, Property is on the west side of Amboy Road approximately 1,263' south of Montreal Avenue., Block 4535, Lot(s) 200 & 205, Borough of **Staten Island, Community Board: 3**. Special Permit (73-30) to allow a non-accessory radio tower on the rooftop of an existing building. C2-5/R3-2/SRD district.

290-09-BZ

24/32 Lindenwood Road, South west corner of Lindenwood road and Lindenwood Place., Block 5432, Lot(s) 20, Borough of **Staten Island, Community Board: 3**. Special Permit (73-44) to permit the reduction in required parking for ambulatory and diagnostic treatment center. C4-1 (SRD) district.

291-09-A

33 Queens Walk, East side of Queens Walk 115.0' north of Breezy Point Boulevard., Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14**. Construction not fronting a mapped street, contrary to Section 36, Article 3 of the General city Law. R4 district.

292-09-BZ

9310-9333 Third Avenue, North east corner of 94th Street., Block 6107, Lot(s) 1, Borough of **Brooklyn, Community Board: 10**. Variance (11-411 & 11-413) to reopen C1-3/R6A&R5B/BR district.

293-09-BZ

2501 Avenue M, Northeast corner of Avenue M and Bedford Avenue., Block 7643, Lot(s) 8, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) for the enlargement of a single family home. R-2 district.

DOCKET

294-09-BZ

3768 Richmond Avenue, West side of Richmond Avenue, 200 feet south of the intersection with Petrus Avenue., Block 5595, Lot(s) 11, Borough of **Staten Island, Community Board: 3**. Special Permit (73-125) to permit an one-story ambulatory diagnostic and treatment health care facility. R3A district.

295-09-A

81 Cortlandt Street, South side of Cortlandt Street, bed of Bache Street., Block 1039, Lot(s) 26, Borough of **Staten Island, Community Board: 2**. Construction within a bed of a mapped street, contrary to Section 35 of the General City Law. R3A district.

296-09-A

83 Cortlandt Street, South side of Cortlandt Street, bed of Bache Street., Block 1039, Lot(s) 25, Borough of **Staten Island, Community Board: 2**. Construction within a bed of a mapped street, contrary to Section 35 of the General City Law. R3A district.

297-09-BZ

180 Ludlow Street, East side of Ludlow Street approximately 125 feet south of East Houston Street., Block 412, Lot(s) 48,49,50, Borough of **Manhattan, Community Board: 3**. Variance to permit the residential use of a partially completed commerical building, contrary to use and bulk regulations. C4-4A district.

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

CALENDAR

NOVEMBER 10, 2009, 10:00 A.M.

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

SPECIAL ORDER CALENDAR

728-29-BZ

APPLICANT – Walter T. Gorman, P.E., for ExxonMobil Corporation, owner; ExxonMobil Franchisee, lessee.
SUBJECT – Application August 31, 2009 – Extension of Term for the continued use of a gasoline service station (Mobil) which expires on March 19, 2010. R-4 zoning district.

PREMISES AFFECTED – 154-04 Horace Harding Expressway, bounded easterly by Kissena Boulevard, northerly by Horace Harding Expressway and southerly by 64th Street, Block 6744, Lot 71, Borough of Queens.

COMMUNITY BOARD #8Q

467-58-BZ

APPLICANT – Walter T. Gorman, P.E., for ExxonMobil Corporation, owner; Nor-Topia Service Station, lessee.
SUBJECT – Application September 14, 2009 – Extension of Term for the continued operation of a Gasoline Service Station (Mobil) which expires on December 4, 2009. R3-2 zoning district.

PREMISES AFFECTED – 172-11 Northern Boulevard, northside blockfront between 172nd Street & Utopia Parkway, Block 5363, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

APPEALS CALENDAR

216-09-A

APPLICANT – Gary D. Lenhart, RA, for The Breezy Point Cooperative, Incorporated, owner; Thomas Fitzgerald, lessee.

SUBJECT – Application July 7, 2009 – Proposed reconstruction and enlargement of a single family home and the proposed upgrade of an existing non-conforming private disposal system located in the bed of a mapped street is contrary to General City Law Section 35. R4 zoning district.
PREMISES AFFECTED – 51 West Market Street, North side of Rockaway Point Boulevard at the intersection of mapperd Bayside Drive. Block 16350, Lot p/o 300, Borough of Queens.

COMMUNITY BOARD #14Q

241-09-BZY

APPLICANT – Gouranga Kundu, for 170-22 93rd Property LLC, owner.

SUBJECT – Application August 12, 2009 – Extension of time to complete construction of a minor development (§11-332) commenced under the prior R6 Zoning district. R4-1 Zoning District.

PREMISES AFFECTED – 87-26 175th Street, (aka 88-04 175th Street) west side of 175th Street, 100' north of corner of 89th Avenue and 175th Street, Block 9830, Lot 41, Borough of Queens.

COMMUNITY BOARD #12Q

NOVEMBER 10, 2009, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 10, 2009, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

160-08-BZ

APPLICANT – Dominick Salvati and Son Architects, for HJC Holding Corporation, owner.

SUBJECT – Application June 11, 2008 – Variance (§72-21) to permit in a R4 zoning district the legalization of commercial storage of motor vehicles (bus storage) (UG 16C) with accessory fuel storage and motor vehicles sales and repair (UG 16B), which is contrary to §22-00.

PREMISES AFFECTED – 651-671 Fountain Avenue, Bounded by Fountain, Stanley, Euclid and Wortman Avenues, Block 4527, Lot 61, 64, 67, 74-78, 80, 82, Borough of Brooklyn.

COMMUNITY BOARD #5BK

299-08-BZ

APPLICANT – Sheldon Lobel, P.C., for The Lantern Group, Inc., owner.

SUBJECT – Application December 4, 1008 – Variance (§72-21) to allow for a 9 story, 104 unit community facility building (non profit institution with sleeping accommodations), contrary to floor area and use regulations (ZR §24-111, §42-00). R6/C1-4, R6/C2-4 and M1-4 zoning districts.

PREMISES AFFECTED – 3857-3861 Third Avenue, northwest intersection of Claremont Parkway and Third Avenue, block 2919, Lots 39, 42, 43, 44, Borough of Bronx.

COMMUNITY BOARD #3BX

CALENDAR

231-09-BZ

APPLICANT – Valerie G. Campbell, Esq. c/o Kramer Levin Naftalis & Frankel LLP for 71 Laight Street, LLC, owner.

SUBJECT – Application July 21, 2009 – Variance (§72-21) to allow for the construction of a 6 story mixed use building contrary to use and parking regulations (ZR §42-10, §13-10). M1-5 / TMU Special District.

PREMISES AFFECTED – 412-414 Greenwich Street, Southwest corner of Laight and Greenwich Streets, on the block bounded by Greenwich, Laight, Washington and Hubert Streets. Block 217, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #1M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, OCTOBER 20, 2009
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

191-53-BZ

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

SUBJECT – Application August 17, 2009 – Extension of Time and Waiver of the Rules to obtain a certificate of occupancy for a Gasoline Service Station (*Mobil*) which expired on September 21, 2001. C2-2/R7-1 zoning district. PREMISES AFFECTED – 42-02/18 Queens Boulevard, south side blockfront from 42nd Street to 43rd Street, Block 169, Lot 22, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Cindy Bachan.

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to obtain a certificate of occupancy for a gasoline service station, which expired on September 21, 2001; and

WHEREAS, a public hearing was held on this application on September 22, 2009 after due notice by publication in *The City Record*, and then to decision on October 20, 2009; and

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

WHEREAS, the site is located on a through block bounded by 42nd Street to the west, Queens Boulevard to the north, and 43rd Street to the east, in a C2-2 (R7-1) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 23, 1959 when, under the subject calendar number, the Board granted a variance to permit the reconstruction of a gasoline service station with accessory uses; and

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

WHEREAS, most recently, on September 21, 1999, the grant was amended pursuant to ZR § 11-412 to permit

the replacement of the existing automotive service station building with a 3,532 sq. ft. masonry building containing an attendant area, office, bathrooms, storage, and an accessory convenience store with 1,700 sq. ft. of sales area and with six multiple pump dispensers and a metal canopy; and

WHEREAS, a condition of the grant was that a new certificate of occupancy be obtained by September 21, 2001; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained by the stipulated date due to administrative oversight during the merger of the corporate owner; and

WHEREAS, the applicant therefore seeks an extension of time to obtain a certificate of occupancy; and

WHEREAS, at hearing, the Board questioned whether the site is in compliance with all conditions from the prior grant; and

WHEREAS, in response, the applicant states that the site is in compliance with the conditions of the previous grant, except that an air machine and car vacuum have been installed on the site; and

WHEREAS, at hearing, the Board directed the applicant to either revise its site plan to reflect the location of the air machine and car vacuum or remove them from the site; and

WHEREAS, in response, the applicant submitted a revised site plan reflecting the location of the air machine and car vacuum; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated July 23, 1959, so that as amended this portion of the resolution shall read: “to grant a one-year extension of time to obtain a certificate of occupancy, to expire on October 20, 2010; *on condition* that the use and operation of the site shall substantially conform to approved plans dated “Received October 19, 2009”-(1) sheet; and *on further condition*:

THAT a certificate of occupancy shall be obtained by October 20, 2010;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 401096899)

Adopted by the Board of Standards and Appeals October 20, 2009.

MINUTES

613-74-BZ

APPLICANT – Greenberg Traurig LLP by Jay Segal, for NY-1095 Avenue of the Americas, LLC, owner; Metropolitan Life Insurance Company, lessee.

SUBJECT – Application July 24, 2009 – Amendment to a previously granted Variance (§72-21) to permit the relocation of illuminated signs (*Metlife*) from the north facade to the east façade of an existing 42-story commercial building. C6-6, C5-3, C6-7, C5-2.5/Special Midtown District/Theater Subdistrict.

PREMISES AFFECTED – 1095 Avenue of the Americas, between 42nd Street and 41st Street, Block 994, Lot 1001-1011, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Randall Miner.

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to permit the relocation of an illuminated sign for the Metropolitan Life Insurance Company (“Met Life”) at the subject site; and

WHEREAS, a public hearing was held on this application on September 22, 2009, after due notice by publication in *The City Record*, and then to decision on October 20, 2009; 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 5, Manhattan, recommends disapproval of this application; and

WHEREAS, the Bryant Park Corporation provided testimony in support of the application; and

WHEREAS, the site is located on a through block bounded by West 42nd Street to the north, Avenue of the Americas to the east, and West 41st Street to the south, and is located partially within four different zoning districts within the Theater Subdistrict of the Special Midtown District: C5-2.5, C5-3, C6-6, and C6-7; and

WHEREAS, the site is occupied by a 42-story commercial office building with a height of 664 feet (the “Building”); and

WHEREAS, the Board has exercised jurisdiction over the site since January 21, 1975 when, under the subject calendar number, the Board granted a variance to permit the installation of an illuminated sign at the rooftop level, on each of the north and south facades of Building; and

WHEREAS, the signs reflected the name of the then owner of the Building, the New York Telephone Company (“NYTC”); and

WHEREAS, the applicant states that subsequently, in

1995, DOB allowed the illuminated NYTC signage to be replaced by non-illuminated signage for NYNEX, the parent company of NYTC; and

WHEREAS, the applicant further states that upon the merger of NYNEX and Bell Atlantic in 1997, DOB allowed the non-illuminated NYNEX signage to be replaced with non-illuminated signage for Bell Atlantic; and

WHEREAS, on August 14, 2001, the Board granted an amendment to permit the replacement of the existing signage with illuminated signage reflecting the logo for Verizon, the new anchor tenant in the Building; and

WHEREAS, the anchor tenant is now Met Life, and on May 30, 2007 the Board issued a letter stating that it had no objection to the Department of Buildings (“DOB”) allowing the applicant to change the existing illuminated signs on the north and south facades of the Building from “Verizon” to “Met Life;” and

WHEREAS, the applicant now seeks an amendment to permit the relocation of the signage located on the north façade (the “North-Facing Sign”) of the Building to the east façade (the “East-Facing Sign”); and

WHEREAS, the applicant represents that the recently-constructed Bank of America Tower (“BOA Tower”) with a height of 1,200 feet on the block across the street to the north of the subject site obscures the North-Facing Sign; and

WHEREAS, the applicant submitted photographs and a sign study reflecting that as a result of the construction of the BOA Tower, the North-Facing Sign would not be visible from anywhere along the Avenue of the Americas; and

WHEREAS, the applicant notes that at the time of the original variance, the BOA Tower site and surrounding area were occupied by one- and two-story buildings which allowed the visibility of the North-Facing Sign along the Avenue of the Americas; and

WHEREAS, accordingly, the applicant proposes to maintain the location of the sign on the south façade of the Building and to relocate the North-Facing Sign to the east where it will be more visible, particularly along 42nd Street east of Fifth Avenue; and

WHEREAS, the applicant notes that the east façade of the Building faces Bryant Park, however the East-Facing Sign will be placed on a portion of the Building that is setback approximately 40 feet from the roofline such that the sign will not be visible from Bryant Park but will be visible at 42nd Street and Fifth Avenue; and

WHEREAS, in support of this contention the applicant submitted evidence, including a sign study for the proposed East-Facing Sign, which reflects that it will not be visible from Bryant Park; and

WHEREAS, the applicant states that the East-Facing Sign will be the same size and have the same degree of illumination as the North-Facing Sign; and

WHEREAS, the applicant states that in order to relocate the sign to the east façade it must install a structure for the sign at that location; and

WHEREAS, the Board acknowledges that the structure is an integral element of the sign and is contemplated within the scope of the amendment; and

MINUTES

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to the previous grant is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on January 21, 1975, so that as amended this portion of the resolution shall read: “to permit the relocation of an illuminated sign from the north façade of the Building to the east façade of the Building, *on condition* that the use and operation of the site shall substantially conform to approved plans dated “Received July 24, 2009”-(4) sheets; and *on further condition*:

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 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. 120083667)

Adopted by the Board of Standards and Appeals, October 20, 2009.

590-76-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Cinfiors Limited, owners.

SUBJECT – Application September 15, 2009 – Extension of Term of a previously granted Variance (§72-01(b)) for an existing illuminated sign that exceeds the permitted height above curb level. C2-8 zoning district.

PREMISES AFFECTED – 243 East 59th Street, northwest corner of 59th Street and Second Avenue, Block 1414, Lot 120, Borough of Manhattan.

COMMUNITY BOARD #8M

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for the continued use of an illuminated advertising sign that exceeds the permitted height above curb level at the subject site, which expires on July 19, 2010; and

WHEREAS, a public hearing was held on this application on September 15, 2009, after due notice by publication in *The City Record*, with a continued hearing on October 6, 2009, and then to decision on October 20, 2009; and

WHEREAS, the premises and surrounding area had site

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

WHEREAS, Community Board 8, Manhattan, recommends disapproval of this application, stating that the subject advertising sign is too large and is inappropriate for this location; and

WHEREAS, the site is located on the northwest corner of the intersection at East 59th Street and Second Avenue, within a C2-8 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 19, 1977 when, under the subject calendar number, the Board granted a variance to permit the reconstruction of an existing advertising sign that exceeded the permitted height above curb level and to install illumination, for a term of three years; and

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

WHEREAS, most recently, the grant was extended on March 28, 2000 for a term of ten years from the expiration of the prior grant, to expire on July 19, 2010; and

WHEREAS, the applicant now seeks to extend the term of the variance for another ten years; and

WHEREAS, the applicant represents that there have been no changes in the sign except for the addition of a platform in compliance with Directive STD 1-1.14 from the U.S. Department of Labor, Occupational Safety and Health Administration, and a change in the material of the sign, in compliance with New York City requirements; and

WHEREAS, the Board notes that the sign will adhere to previously approved parameters, including a size of 1,500 sq. ft. and a height of no more than 60 feet above curb level; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant states that the sign has existed at the subject location for more than 30 years without any complaints; and

WHEREAS, the Board notes that the applicant submitted consent forms from certain neighbors stating that they have no objection to this application, but that full notification was not required or performed for this application; and

WHEREAS, based upon the above, 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 *reopens* and *amends* the resolution, dated July 19, 1977, so that as amended this portion of the resolution shall read: “to extend the term for ten years from July 19, 2010, to expire on July 19, 2020; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; *on condition* that the use and operation of the site shall substantially conform to approved plans dated “Received July 23, 2009”-(3) sheets; and *on further condition*:

THAT the term of the grant shall expire on July 19, 2020;

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

MINUTES

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 120039680)

Adopted by the Board of Standards and Appeals, October 20, 2009.

194-97-BZ

APPLICANT – Sheldon Lobel, P.C., for Auto Service Management Corporation, owner.

SUBJECT – Application April 22, 2009 – Extension of Term for a Variance (§72-21) for an automotive repair facility (UG 16B), which expired on November 29, 2007; Extension of Time to obtain a certificate of occupancy which expired on December 22, 1999; Waiver of the Rules. R4B zoning district.

PREMISES AFFECTED – 84-12 164th Street, northwest corner of 84th Road and 164th Street, Block 9792, Lot 31,137, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for the continued operation of an automotive repair shop (Use Group 16), an extension of time to obtain a certificate of occupancy, and an amendment to permit the no-build condition of the previously approved addition of a service bay on the south end of the service station building; and

WHEREAS, a public hearing was held on this application on August 25, 2009, after due notice by publication in *The City Record*, with a continued hearing on September 22, 2009, and then to decision on October 20, 2009; and

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

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

WHEREAS, the site is located on the northwest corner of 164th Street and 84th Road, within an R4B zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 13, 1953 when, under BSA Cal. No. 735-52-BZ, the Board granted a variance to permit the construction and maintenance of a gasoline service station, lubritorium, car wash, motor vehicle repairs, office,

sales and storage of accessories, and parking and storage of motor vehicles, for a term of 15 years; and

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

WHEREAS, most recently, on December 22, 1998, under the subject calendar number, the Board granted a variance to permit a change in use from a motor vehicle repair shop and gasoline service station to a motor vehicle repair shop with automobile sales, the addition of a new lubritorium and inspection area, and the legalization of the expansion of the facility onto adjacent Lot 137, to expire on November 29, 2007; a condition of the grant was that a new certificate of occupancy be obtained by December 22, 1999; and

WHEREAS, the applicant now requests an additional ten-year term and an extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained by the stipulated date due to administrative oversight by the prior owner; and

WHEREAS, the applicant also seeks to amend the prior resolution to acknowledge that the previously approved addition of a service bay on the south end of the service station building will not be constructed; and

WHEREAS, at hearing, the Board directed the applicant to: (1) improve the condition of the property’s landscaped areas and repair the chain-link fence located at the southwest corner of the site; (2) revise the site plan to reflect the chain link fence with a height of six feet on the western portion of the site, and the curb cut that provides access to the asphalt driveway along the site’s western lot line; and (3) revise the site plan to incorporate the proposed trees to be planted in the property’s landscaped areas as specified on the previously approved plans; and

WHEREAS, in response, the applicant submitted photographs reflecting that the landscaped areas have been improved and the fence has been repaired, and submitted a revised site plan which identifies the chain link fence on the western portion of the site, the curb cut providing access to the driveway along the site’s western lot line, and the proposed trees to be planted in the property’s landscaped areas; and

WHEREAS, the applicant requested additional time to enable the owner to plant the proposed trees during the appropriate planting season; and

WHEREAS, based upon the above, the Board finds that the requested extension of term, extension of time to obtain a certificate of occupancy, and amendment to the previously approved plans are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated December 22, 1998, so that as amended this portion of the resolution shall read: “to extend the term for ten years from November 29, 2007, to expire on November 29, 2017, to grant an extension of time to obtain a certificate of occupancy to July 20, 2010, and to permit certain

MINUTES

amendments to the previously approved site plan; *on condition* that all use and operations shall substantially conform to drawings filed with this application marked “Received July 27, 2009”-(2) sheets and “October 5, 2009”-(1) sheet; and *on further condition*:

THAT the term of the grant shall expire on November 29, 2017;

THAT a certificate of occupancy shall be obtained by July 20, 2010;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 410231976)

Adopted by the Board of Standards and Appeals, October 20, 2009.

272-07-BZ

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

SUBJECT – Application November 28, 2007 – Amendment of a Special Permit (§73-36) to allow an enlargement of a Physical Culture Establishment. C2-7A and C4-6A zoning districts.

PREMISES AFFECTED – 344 Amsterdam Avenue, aka 205 W. 76th Street aka 204 W. 77th Street, west side of Amsterdam Avenue, between West 76th and West 77th Streets, Block 1168, Lots 1001, 1002, 30, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Jodi Siegel-Stein.

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

Negative:.....5

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to permit an extension of the physical culture establishment (“PCE”) use at the cellar level and first floor of the subject site; and

WHEREAS, a public hearing was held on this application on September 2, 2009, after due notice by publication in *The City Record*, and then to decision on October 20, 2009; and

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

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

WHEREAS, the site is located on the west side of Amsterdam Avenue, between West 76th Street and West 77th Street, partially within a C2-7A zoning district and partially within a C4-6A zoning district; and

WHEREAS, the site is occupied by a 13- and 18-story mixed-use commercial/residential building; and

WHEREAS, the PCE use is located on the cellar level, first floor and second floor, and occupies a total floor area of 27,907 sq. ft. with an additional 5,302 sq. ft. of floor space in the cellar; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 13, 2008 when, under the subject calendar number, the Board granted a special permit for the establishment of the PCE, to expire on May 13, 2018; and

WHEREAS, the applicant now seeks an amendment to extend the PCE from 5,302 sq. ft. to 20,116 sq. ft. of floor space at the cellar level, and from 3,433 sq. ft. to 3,837 sq. ft. of floor area on the first floor; and

WHEREAS, the applicant states that the increased space at the cellar level will be occupied by locker rooms, offices, storage space, and yoga studios for the PCE, and the increased floor area on the first floor is necessary to provide a second entrance to the PCE on West 77th Street; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to the previous grant is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on May 13, 2008, so that as amended this portion of the resolution shall read: “to permit the extension of the PCE use at the cellar level and first floor, *on condition* that the use and operation of the site shall substantially conform to approved plans dated “Received September 17, 2009”-(4) sheets; and *on further condition*:

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 110021146)

Adopted by the Board of Standards and Appeals, October 20, 2009.

115-53-BZ

APPLICANT – Eric Palatnik, P.C., for Theodoras Zorbas, owner.

SUBJECT – Application July 8, 2009 – Extension of Term and Waiver of the Rules for the continued use of a Gasoline Service Station (*Mobil*) which expired on July 11, 2008. C2-

MINUTES

2/R3-2 zoning district.
PREMISES AFFECTED – 252-02 Union Turnpike, southwest corner of Little Neck Parkway, Block 8565, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Eric Paltnik.

ACTION OF THE BOARD – Laid over to November 17, 2009, at 10 A.M., for continued hearing.

1715-61-BZ

APPLICANT – Mitchell S. Ross, for 21st Century Cleaners Corporation, owner.

SUBJECT – Application July 17, 2009 – Extension of Term (§11-411) for a dry cleaning establishment (UG 6A), which expired on June 5, 2007; Extension of Time to obtain a certificate of occupancy, which expired on December 14, 2000; Waiver of the Rules. R3X zoning district.

PREMISES AFFECTED – 129-02 Guy R. Brewer Boulevard, a/k/a 129-02 New York Boulevard, south west corner of 129th Avenue and Guy R. Brewer Boulevard, Block 2276, Lot 59, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Mitchell S. Ross.

ACTION OF THE BOARD – Laid over to November 17, 2009, at 10 A.M., for continued hearing.

1038-80-BZ

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

SUBJECT – Application August 28, 2009 – Extension of Term of a Special Permit for the continued operation of a UG15 Amusement Arcade (*Smile Arcade*) which expired on January 6, 2009. M2-1 zoning district.

PREMISES AFFECTED – 31-07/09/11 Downing Street, Block 427, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Ron Mandel.

THE VOTE TO CLOSE HEARING –

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

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

1016-86-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Opera Owner Incorporated, owner; TSI West 76 LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application August 13, 2009 – Extension of

Term for a special permit (§73-36) which expired on May 5, 2007 for the operation of a Physical Culture Establishment (*New York Sports Club*); Extension of Time to obtain a Certificate of Occupancy which expired on October 26, 2000; and Waiver of the Rules. C4-6A zoning district.

PREMISES AFFECTED – 2162-2166 Broadway, easterly side of Broadway 26 feet north of West 76th Street, Block 1168, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to November 17, 2009, at 10 A.M., for continued hearing.

311-04-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for Block 2285 Lite Corporation, owner.

SUBJECT – Application July 8, 2009 – Amendment to a previously granted Variance (§72-21) for a proposed one family dwelling which is contrary to lot coverage (§105-33) and maximum height (§23-631) regulations. R1-2(NA-1) zoning district.

PREMISES AFFECTED – 380 Lighthouse Avenue, south side of Lighthouse Avenue, 579' west of Winsor Avenue, Block 2285, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Todd Dale.

For Opposition: Sue Castellaneta.

ACTION OF THE BOARD – Laid over to November 17, 2009, at 10 A.M., for continued hearing.

197-05-BZ

APPLICANT – Marvin Mitzner, Esq., for B&E 813 Broadway Realty, owner.

SUBJECT – Application April 17, 2009 – Amendment to a variance (§72-21) to allow full commercial coverage on the ground floor and an increase in commercial FAR in a mixed use building. C6-1 zoning district.

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

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Marvin Mitzner.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to November 24, 2009, at 10 A.M., for decision, hearing closed.

MINUTES

APPEALS CALENDAR

140-08-BZY

APPLICANT – Eric Palatnik, P.C., for 1016 East 13th Realty, LLC, owner.

SUBJECT – Application April 5, 2008 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior R6 zoning district. R5 zoning district.

PREMISES AFFECTED – 1016 East 13th Street, between Avenue J and K, Block 6714, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, October 20, 2009.

178-09-A

APPLICANT – Marvin B. Mitzner, Esq., for 120 St. Marks LLC, owner;

O. Moscovich, D.V.M., P.C., lessee.

SUBJECT – Application June 1, 2009 – Appeal contesting an Order of Closure issued by the Department of Buildings that the use of the cellar at the subject premises as a Veterinarian's Office (UG6) constitutes an illegal use in a residential district pursuant to Administrative Code Section 28-212.1. R8B zoning district.

PREMISES AFFECTED – 120 St. Marks Place (East 8th street), south side of St. Marks Place, Block 435, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, October 20, 2009.

233-09-BZY

APPLICANT – Sheldon Lobel, P.C., for 175th Street Associates, LLC, owner.

SUBJECT – Application July 24, 2009 – Application to complete construction of a minor development (§11-332) commenced under the prior R6 Zoning District. R4-1 zoning district.

PREMISES AFFECTED – 91-12 175th Street, west side of 175th Street, Block 9809, Lot (Tent. 70), Borough of

Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application under ZR § 11-332, to permit an extension of time to complete construction and obtain a certificate of occupancy for a minor development; and

WHEREAS, a public hearing was held on this application on October 6, 2009, after due notice by publication in *The City Record*, and then to decision on October 20, 2009; and

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

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

WHEREAS, the subject site is located on the west side of 175th Street, between 91st Avenue and Jamaica Avenue, in an R4-1 zoning district; and

WHEREAS, the subject site has 80 feet of frontage along 175th Street, a depth of approximately 117 feet, and a total lot area of 9,370 sq. ft.; and

WHEREAS, the site is proposed to be developed with an eight-story mixed-use residential/community facility building (the "Building"); and

WHEREAS, the Building is proposed to have a total floor area of 29,045 sq. ft. (3.1 FAR); and

WHEREAS, the development complies with the former R6 zoning district parameters; and

WHEREAS, however, on September 10, 2007 (hereinafter, the "Enactment Date"), the City Council voted to adopt The Jamaica Plan Rezoning, which rezoned the site from R6 to R4-1; and

WHEREAS, on July 25, 2007, New Building Permit No. 402581167-01-NB (hereinafter, the "New Building Permit") was issued by the Department of Buildings ("DOB") permitting construction of the Building; and

WHEREAS, as of the Enactment Date, the applicant had obtained permits for the development and had completed 100 percent of its foundations, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows DOB to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are allowed for completion of construction and to obtain a certificate of occupancy; and

WHEREAS, accordingly, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-30 *et seq.*, which sets forth the regulations that apply to a reinstatement of a permit that lapses

MINUTES

due to a zoning change; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as the proposed development, which involves the construction of a single building which is non-complying under an amendment to the Zoning Resolution, as a "minor development"; and

WHEREAS, for a "minor development," an extension of time to complete construction, previously authorized under a grant for an extension made pursuant to ZR § 11-331, may be granted by the Board pursuant to ZR § 11-332; and

WHEREAS, ZR § 11-332 reads, in pertinent part: "[I]n the event that construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefore within two years after the effective date of any applicable amendment . . . the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew such building permit for two terms of not more than two years each for a minor development . . . In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit."; and

WHEREAS, as a threshold issue, the Board must determine that proper permits were issued, since ZR § 11-31(a) requires: "[F]or the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, the applicant represents that all of the relevant DOB permits were lawfully issued to the owner of the subject premises; and

WHEREAS, by letter dated September 30, 2009, DOB stated that the New Building Permit was lawfully issued, authorizing construction of the proposed Building prior to the Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the New Building Permit was lawfully issued to the owner of the subject premises prior to the Enactment Date and was timely renewed until the expiration of the two-year term for construction; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

WHEREAS, the Board also observes that the work to be measured under ZR § 11-332 must be performed after the issuance of the permit; and

WHEREAS, similarly, the expenditures to be assessed under ZR § 11-332 are those incurred after the permit is issued; and

WHEREAS, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant; and

WHEREAS, the Board further notes that any work performed after the two-year time limit to complete construction and obtain a certificate of occupancy cannot be considered for vesting purposes; accordingly, only the work performed as of September 10, 2009 has been considered; and

WHEREAS, in written statements and testimony, the applicant represents that, since the issuance of the New Building Permit, substantial construction has been completed and substantial expenditures were incurred; and

WHEREAS, the applicant states that work on the proposed development subsequent to the issuance of the permit includes 100 percent of the superstructure and masonry, 95 percent of the rough carpentry, 80 percent of the electrical work, plumbing work and mechanical work, and 20 percent of the finishing work; and

WHEREAS, in support of this statement, the applicant has submitted the following: construction contracts, a construction schedule detailing the work completed since the issuance of the New Building Permit; a breakdown of the construction costs by line item and percent complete; an affidavit from the general contractor enumerating the completed work; copies of lien waivers evidencing payments made by the applicant; invoices; and photographs of the building's interior and exterior; and

WHEREAS, the Board has reviewed all documentation and agrees that it establishes that the aforementioned work was completed subsequent to the issuance of the valid permit and before September 10, 2009; and

WHEREAS, the Board notes that, based on visual inspections, a substantial amount of physical construction has been completed; and

WHEREAS, as to costs, the applicant represents that the total expenditures and irrevocable commitments for the development to date are \$5,584,635, or approximately 90 percent of the \$6,215,000 cost to complete; and

WHEREAS, as noted, the applicant has submitted construction contracts, copies of lien waivers, and invoices; and

WHEREAS, the applicant contends that this percentage constitutes a substantial expenditure sufficient to satisfy the finding in ZR § 11-332; and

WHEREAS, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since the issuance of the permits; and

WHEREAS, therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR § 11-332, and that the owner is entitled to the requested reinstatement of the New Building Permit, and all other

MINUTES

permits necessary to complete the proposed development; and

WHEREAS, accordingly, the Board, through this resolution, grants the owner of the site a two-year extension of time to complete construction, pursuant to ZR § 11-332; and

Therefore it is Resolved that this application made pursuant to ZR § 11-332 to renew Building Permit No. 402581167-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed development and obtain a certificate of occupancy for one term of two years from the date of this resolution, to expire on October 20, 2011.

Adopted by the Board of Standards and Appeals, October 20, 2009.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING TUESDAY AFTERNOON, OCTOBER 20, 2009 1:30 P.M.

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

147-07-BZY

APPLICANT – Cozen O’Connor Attorneys, for Gabriel Realty, LLC, owner.

SUBJECT – Application August 27, 2009 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior R6 (M1-2) district regulations. R6B zoning district.

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

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Peter Geis.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Montanez.....4

Recused: Commissioner Hinkson.....1

Negative:.....0

ACTION OF THE BOARD – Laid over to November 17, 2009, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

210-08-BZ

CEQR #09-BSA-017Q

APPLICANT – Sheldon Lobel, P.C., for Samaritan Foundation, Inc., owner.

SUBJECT – Application August 15, 2009 – Variance (§72-21) to permit two-story enlargement to an existing two-story building for a UG 3 drug treatment facility with sleeping accommodations (*Samaritan Village*), contrary to use regulations (ZR §43-00). M1-1 district.

PREMISES AFFECTED – 130-15 89th Road, north side of 89th Road, approximately 125’ east of 130th Street, Block 9338, Lot 147, Borough of Queens.

COMMUNITY BOARD #9Q

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated July 8, 2009, acting on Department of Buildings Application No. 410106683, reads in pertinent part: “A use group 3 community facility; a nursing home and health-related facility as defined in the New York State Hospital Code is not a permitted use in a M1-1 zoning district. The proposed alteration and change of use group would create a new [non] conforming use which is contrary to ZR 42-00.

The proposed community facility building does not provide the required minimum setback as per ZR Section 43-43;” and

WHEREAS, this is an application under ZR § 72-21, to legalize an existing drug treatment center with sleeping accommodations (Use Group 3) and to permit a two-story enlargement of the existing facility, contrary to ZR §§ 42-00 and 43-43; and

WHEREAS, a public hearing was held on this

249-09-A

APPLICANT – Bryan Cave LLP, for 363 Lafayette Street, LLC, owner.

SUBJECT – Application August 27, 2009 – Appeal challenging Department of Building’s determination that the permit for the subject premises expired and became invalid because the permitted work was not commenced within 12 months from the date of issuance, per Title 28, §28-105.9 of the Administrative Code.

PREMISES AFFECTED – 363 Lafayette (371 Lafayette Street, 21 Great Jones Street) east side of Lafayette Street, between Bond and Great Jones Streets, Block 530, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 10, 2009, at 10 A.M., for postponed hearing.

MINUTES

application on June 9, 2009, after due notice by publication in the *City Record*, with continued hearings on July 14, 2009 and August 25, 2009, and then to decision on October 20, 2009; 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, this application is brought on behalf of Samaritan Village, Inc. ("Samaritan Village"), a not-for-profit entity; and

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

WHEREAS, the site is located on the north side of 89th Road, approximately 125 feet east of 130th Street, in an M1-1 zoning district; and

WHEREAS, the subject zoning lot has 132 feet of frontage on 89th Road, a depth of 100 feet, and a total lot area of 11,349 sq. ft.; and

WHEREAS, the site is currently occupied by a two-story 10,234 sq. ft. research laboratory building; and

WHEREAS, the building, which has been modified, is currently occupied by a drug treatment center (Use Group 3) operated by Samaritan Village, which is a non-conforming use in the subject M1-1 zoning district; and

WHEREAS, the applicant proposes to legalize the existing facility and build a two-story enlargement to create a four-story 19,176 sq. ft. facility with a setback of ten feet at the fourth floor (a setback of 15 feet is required at a height of 30 feet); and

WHEREAS, the applicant represents that the following are unique physical conditions inherent to the subject building and zoning lot, which create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: (1) the existing building is obsolete for modern manufacturing and commercial uses; and (2) the site is adjacent to a railroad embankment with a height of 20 feet, which creates a dead end; and

WHEREAS, as to the obsolescence of the building, the applicant states that the existing building is sub-standard for modern manufacturing or commercial use, as it was constructed more than 45 years ago as a research laboratory and cannot feasibly be adapted to a modern conforming use; and

WHEREAS, the applicant states that the existing building is also sub-standard with regard to its current use as a community facility, as it does not provide the amenities associated with a modern drug treatment facility; and

WHEREAS, the applicant represents that the requested waivers will enable Samaritan Village to update the facility to provide much needed recreational space, improved outdoor space, group rooms, counseling offices and single beds, as well as to modernize the kitchen, bathrooms, and plumbing at the facility; and

WHEREAS, as to the site's location, the applicant states that the eastern side of the site is directly adjacent to a railroad embankment with a height of 20 feet; and

WHEREAS, the railroad embankment cuts across the site diagonally, leaving it with an irregular shape and creating a dead end on 89th Road to the east of 130th Street; and

WHEREAS, the dead end limits maneuverability and access to the site, which is only accessible from 89th Road; and

WHEREAS, as to the uniqueness of this condition, the land use map reflects that the site is one of only three wholly within a 400-ft. radius of the site which abuts the railroad embankment and can only be accessed from a dead end street; and

WHEREAS, the applicant represents that this condition limits the viability of a conforming manufacturing use; and

WHEREAS, the applicant also states that the existing building cannot accommodate Samaritan Village's programmatic needs of providing drug treatment services to war veterans, and that the proposed enlargement of the site is necessary to accommodate an increase in demand at the facility; and

WHEREAS, the applicant states that Samaritan Village operates a drug treatment facility on the site which provides treatment solely to war veterans; and

WHEREAS, the applicant submitted an existing contract between Samaritan Village and the New York State Office of Alcoholism and Substance Abuse Services to provide such services; and

WHEREAS, the applicant represents that an increase in the number of veterans returning from overseas has resulted in a corresponding increase in demand for the services offered by the facility; and

WHEREAS, specifically, the applicant states that Samaritan Village's programmatic needs now require the accommodation of 50 in-patients; and

WHEREAS, the applicant states that the existing building is undersized and inadequate to accommodate the programmatic needs of Samaritan Village, as it is only able to provide treatment for 32 in-patients at full capacity; and

WHEREAS, the applicant further states that the requested variance will enable Samaritan Village to expand its services by providing room for 18 additional in-patients; and

WHEREAS, the applicant represents that the requested setback waiver is necessary to provide an efficient interior layout on the fourth floor and adequate space to accommodate Samaritan Village's programmatic needs; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate and in conjunction with the programmatic needs of Samaritan Village, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

WHEREAS, the applicant need not address ZR § 72-21(b) since Samaritan Village is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant states that a community facility use has existed on the site for more than 40 years, and

MINUTES

the current and proposed use has operated on the site since 1992; and

WHEREAS, the applicant further states that the lot located directly across 89th Road from the site is similarly occupied by a community facility use; and

WHEREAS, the applicant submitted a 400-foot radius diagram, which reflects that there is significant residential development within the R4 zoning district located across the railroad tracks to the east and in the R5 zoning district located across 130th Street to the west; and

WHEREAS, the applicant represents that the proposed use would be permitted as-of-right in the adjacent R4 and R5 zoning districts; and

WHEREAS, as to bulk, the applicant represents that the proposed floor area and height of the building are permitted as-of-right in the M1-1 zoning district; and

WHEREAS, the applicant states that the subject site is located at the end of a dead end street along a railroad embankment, which will minimize any impact of the requested setback waiver to the east of the site; and

WHEREAS, the applicant further states that there is no through traffic travelling along the subject portion of 89th Road; and

WHEREAS, the applicant represents that the plans reflect that the proposed parking complies with the zoning requirements; and

WHEREAS, accordingly, the Board finds that the variance, if granted, will not negatively impact the character of the neighborhood; and

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

WHEREAS, the applicant represents that the requested setback waiver is minimal, as it only applies to the fourth floor of the building along 89th Road, which will be set back ten feet, rather than 15 feet; and

WHEREAS, based upon the above, the Board finds that this proposal is the minimum necessary to afford Samaritan Village relief; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, 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. 09BSA017Q dated October 16, 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; 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 Department of Environmental Protection's Office of Environmental Planning and Assessment (DEP) has reviewed the following submissions from the Applicant: February 2009 Environmental Assessment Statement; March 2009 Phase I Environmental Site Assessment; and September 11, 2009 Air Quality and Noise submissions; and

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

WHEREAS, DEP requested that a Construction Health & Safety Plan (CHASP) (for hazardous materials and asbestos) be submitted to DEP for review and approval prior to the time building permits are issued; and

WHEREAS, DEP states that based on the air quality submissions that significant air quality impacts from surrounding manufacturing/industrial uses on the proposed project are not anticipated; and

WHEREAS, the following proposed noise attenuation was reviewed and approved by DEP for the building: the installation of double-glazed windows (providing an OITC rating of 35 dBA) on the second through fourth stories of the north, south and east (facing the rail tracks) building frontages; an alternate means of ventilation (central air conditioning or individual air conditioning units); and window-wall attenuation; and

WHEREAS, DEP has determined that the proposed project would not generate sufficient vehicular traffic to have the potential to cause a significant air quality or noise impact from mobile sources; 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 issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit the legalization of an existing drug treatment center with sleeping accommodations (Use Group 3) and to permit, in an M1-1 zoning district, a two-story enlargement of the existing facility, contrary to ZR §§ 42-00 and 43-43; *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 October 19, 2009"– (12) sheets; and *on further condition*;

THAT the following shall be the bulk parameters of the building: a floor area of 19,176 sq. ft. (1.69 FAR); a total height of 48 feet; and a setback of ten feet at the fourth floor;

THAT substantial construction shall be completed pursuant to ZR § 72-23;

THAT the applicant shall submit a CHASP to DEP for

MINUTES

review and approval prior to the time building permits are issued;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until DEP shall have issued a Notice of Satisfaction;

THAT the building design shall include: (1) the installation of double-glazed windows (providing an OITC rating of 35 dBA) on the second through fourth stories of the north, south and east building frontages; (2) Alternate means of ventilation (central air conditioning or individual air conditioning units); and (3) window-wall attenuation;

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

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

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

Adopted by the Board of Standards and Appeals, October 20, 2009.

297-08-BZ

APPLICANT – Lewis E. Garfinkel, for Itzhak Bardror, owner.

SUBJECT – Application December 4, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to open space and floor area (§23-141(a)) and rear yard (§23-47) regulations. R2 zoning district.

PREMISES AFFECTED – 3496 Bedford Avenue, between Avenue M and Avenue N, Block 7660, Lot 78, Borough of Brooklyn.

COMMUNITY BOARD #14BK

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated November 6, 2008, acting on Department of Buildings Application No. 310208628, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(A) in that the proposed floor area ratio (FAR) exceeds the permitted 50%.
2. Proposed plans are contrary to ZR 23-141(A) in that the proposed open space ratio (OSR) is less than the required 150%.

3. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30’-0”;

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on May 12, 2009 after due notice by publication in *The City Record*, with continued hearings on June 23, 2009, August 25, 2009 and October 6, 2009, and then to decision on October 20, 2009; and

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

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

WHEREAS, certain neighbors provided testimony in opposition to the application; and

WHEREAS, the adjacent neighbor, represented by counsel, provided testimony and submissions in opposition to the application (hereinafter, the “Opposition”); and

WHEREAS, the Opposition raised the following primary concerns: (1) the proposed home is not compatible with the essential character of the neighborhood; and (2) the drawings submitted by the applicant are incomplete and inaccurate; and

WHEREAS, the subject site is located on the west side of Bedford Avenue, between Avenue M and Avenue N, in an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 1,875 sq. ft. (0.46 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 to increase the floor area from 1,875 sq. ft. (0.46 FAR) to 3,684 sq. ft. (0.93 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.5 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 71 percent (150 percent is the minimum required); and

WHEREAS, the proposed enlargement will maintain the existing rear yard with a depth of 29’-10” (a rear yard with a depth of 30’-0” is the minimum required); and

WHEREAS, pursuant to ZR § 73-622, the Board must find that the enlarged building will not alter the essential character of the neighborhood or district in which the building is located, nor impair the future use or development of the surrounding area; and

WHEREAS, the applicant states that the shape and form of the proposed home is consistent with the character of the surrounding neighborhood, which consists of two- and three-story detached single-family homes; and

MINUTES

WHEREAS, the applicant further states that the proposed home complies with all bulk requirements related to height, lot coverage, side yards and front yard and that the rear yard, which is only two inches shallower than the minimum required 30 feet, is a pre-existing non-complying condition that will be maintained; and

WHEREAS, the Opposition contends that the proposed building fails to meet the requirement of the special permit because it will alter the essential character of the neighborhood, raising specific concerns related to: (1) the proposed front yard with a depth of 15 feet; (2) the proposed construction of a front porch; and (3) the massing of the proposed home; and; and

WHEREAS, the Opposition represents that 27 out of 33 homes on the subject block front provide front yards with depths of at least 17 feet and that the average front yard depth exceeds 20 feet; and

WHEREAS, in response, the applicant states that, even assuming the Opposition's calculations are correct, the result is that at least six homes on the subject block have a front yard depth of less than 17 feet; and

WHEREAS, the applicant further states that the fact that at least six buildings have a front yard depth of less than 17 feet indicates that there is a great degree of variation in front yard depth on the subject block, as the only way the average depth could exceed 20 feet is if many front yards were much greater in depth; thus, the applicant concludes that consistency of front yard depths is not essential to the character of the district; and

WHEREAS, the applicant also submitted photographs reflecting that a number of the front yards on the subject block contain permitted obstructions including masonry walls, hedges, terraces, porches and stairs, which compromise and diminish the significance of the depth of the front yards; and

WHEREAS, the Board notes that the applicant and the Opposition submitted surveys in support of their positions regarding the front yard conditions of homes on the subject block front; and

WHEREAS, the Board notes that the parties' surveys were initially in conflict, but both have submitted subsequent surveys which reflect the same conditions; and

WHEREAS, accordingly, the Board accepts the subsequent surveys as evidence of the front yard conditions; and

WHEREAS, Board notes that the surveys reflect that there is a home on a lot with a width of 80 feet, directly across the street from the subject home, which has a front yard with a depth of approximately 17 feet (Block 7661, Lot 9) and that there are two homes, two lots away from the subject site with front yard depths of 14.9 feet (Block 7660, Lot 68) and 15.2 feet (Block 7660, Lot 70); the latter also has a lot width of 80 feet, which is twice the width of the subject lot and, accordingly, establishes a more significant presence than a narrower home on a narrower lot; and

WHEREAS, the Board notes that a front yard with a depth of 15 feet is a complying condition within the as-of-right building envelope and no waiver is sought for that

condition; and

WHEREAS, additionally, the Board's review of photographs and visual observations made at site visits support the conclusion that the proposed front yard with a depth of 15 feet is compatible with the existing conditions; and

WHEREAS, the Opposition asserts that the massing of the enlargement along the Bedford Avenue frontage is not compatible with the neighborhood character; and

WHEREAS, in support of this assertion, the Opposition provided an analysis of the setback conditions of the homes on the subject block front and concluded that the majority of other homes provide a set back at the second floor; and

WHEREAS, the Opposition acknowledges that visual inspection is not an adequate means of ascertaining this information; and

WHEREAS, in response, the applicant submitted photographs of several homes on the subject block with massing similar to the proposed enlargement; and

WHEREAS, the Board notes that neighborhood character is reflected in a confluence of conditions and that certain homes such as the adjacent home to the south on the subject site, may provide a front yard with a depth of 24.6 feet, but its presence and massing are substantial given its considerably wider frontage; and

WHEREAS, the Opposition also asserts that the applicant has not appropriately measured the level of the front yard and thus it appears that the proposed building height exceeds 30 feet; and

WHEREAS, the Board notes that this is speculation, which is not supported by any evidence; and

WHEREAS, the Board notes that Board staff directed the applicant to add grade elevations to the proposed plans; and

WHEREAS, the Board notes that the proposed plans are signed and sealed by a registered architect and that the height and elevations are subject to DOB review; and

WHEREAS, additionally, the Board notes that the permitted obstructions, including porches and dormers are contemplated by the ZR and are subject to DOB's review; and

WHEREAS, the Board notes that the reference to porches on the proposed plans is in sketch form and, as noted on the proposed plans, their construction and final form are subject to DOB's review; and

WHEREAS, further, the Board notes that permitted obstructions, like the front yard with a depth of 15 feet, are permitted as of right and do not require any waiver from the Board; and

WHEREAS, accordingly, the Board finds that it is appropriate for permitted obstructions, the measurement of which may be highly technical, to be subject to DOB, rather than the Board's, review; and

WHEREAS, the Board notes that a property owner must submit a series of detailed drawings to reflect building infrastructure, room layout, egress, and fenestration, among other conditions, which are all subject to DOB review for

MINUTES

zoning and Building Code compliance; and

WHEREAS, the Board notes that it is DOB's role, and not the Board's, to review construction and enforce compliance with the approved plans and with relevant zoning and Building Code regulations; and

WHEREAS, the Board recognizes that there is a self-certification process which allows a project architect to approve his own plans, but the Board notes that any construction project remains subject to DOB's review at any time; and

WHEREAS, accordingly, the Board rejects the Opposition's assertion that permitted obstructions must be reviewed by the Board within the context of the subject special permit; 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 ZR § 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 FAR, open space ratio, and rear yard, contrary to ZR §§ 23-141 and 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 September 24, 2009"-(13) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,684 sq. ft. (0.93 FAR); an open space ratio of 71 percent; a side yard with a minimum width of 8'-6" along the southern lot line; a side yard with a minimum width of 6'-11" along the northern lot line; and a rear yard with a minimum depth of 29'-10", as illustrated on the BSA-approved plans;

THAT DOB shall review all porches and other permitted obstructions for compliance;

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

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, October 20, 2009.

183-09-BZ
CEQR #09-BSA-116M

APPLICANT – The Law Office of Fredrick A. Becker, for 1400 5th Commercial LLC, owner; TSI West 115th Street LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application June 4, 2009 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*NY Sports Club*) on a portion of the ground floor and cellar in an eight-story mixed-use building. C4-5X zoning district.

PREMISES AFFECTED – 1400 5th Avenue, Northeast corner of 5th Avenue and West 115th Street. Block 1599, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....5

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Superintendent, dated May 5, 2009, acting on Department of Buildings Application No. 110144264, reads in pertinent part:

“Proposed physical culture establishment is not permitted as of right in C4-5X zoning districts. This use is contrary to Section 32-10 ZR and requires a special permit from the BSA under Section ZR 73-36;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-5X zoning district, the legalization of a physical culture establishment (PCE) at the cellar level and first floor of an eight-story mixed-use commercial/residential/community facility building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on August 11, 2009, after due notice by publication in the *City Record*, with a continued hearing on September 15, 2009, and then to decision on October 20, 2009; and

MINUTES

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Vice-Chair Collins; and

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

WHEREAS, the subject site is located on a through block, bounded by West 116th Street to the north, Fifth Avenue to the east, and West 115th Street to the south, in a C4-5X zoning district; and

WHEREAS, the site is occupied by an eight-story mixed-use commercial / residential / community facility building; and

WHEREAS, the PCE has a total floor area of 3,886 sq. ft. on the first floor, with an additional 9,230 sq. ft. of space located in the cellar; and

WHEREAS, the PCE is operated as New York Sports Club; and

WHEREAS, the proposed hours of operation are: Monday through Thursday, from 5:30 a.m. to 11:00 p.m.; Friday, from 5:30 a.m. to 10:00 p.m.; Saturday, from 7:00 a.m. to 6:00 p.m.; and Sunday, from 8:00 a.m. to 6:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

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

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

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

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

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

WHEREAS, the Board notes that the PCE has been in operation since November 1, 2008, 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 1, 2008 and the date of this grant; 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. 09BSA116M, dated June 4, 2009; 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; 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 §§ 73-36 and 73-03, to permit, on a site within a C4-5X zoning district, the legalization of a physical culture establishment at the cellar level and first floor of an existing eight-story mixed-use commercial/residential/community facility building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 4, 2009"-Four (4) sheets; "Received September 1, 2009"-One (1) sheet; and "Received October 15, 2009"-One (1) sheets and *on further condition*:

THAT the term of this grant shall expire on November 1, 2018;

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

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

THAT the cellar and first floor shall be finished with 3/8-inch rubber flooring;

THAT the aerobics studio and all free weights shall be located in the cellar level;

THAT limiters shall be installed on the stereo systems in the aerobics studio and club;

THAT speakers for the PCE shall not be mounted on the ceiling;

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

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

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

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

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

MINUTES

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

Adopted by the Board of Standards and Appeals, October 20, 2009.

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. 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.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 10, 2009, at 1:30 P.M., for decision, hearing closed.

254-08-BZ

APPLICANT – Eric Palatnik, P.C., for Yeshiva Ohr Yitzchok, owner.

SUBJECT – Application October 15, 2008 – Variance (§72-21) to legalize and enlarge a Yeshiva (*Yeshiva Ohr Yitzchok*) contrary to §42-11 (use regulations), §43-122 (floor area), §43-43 (wall height, number of stories, and sky exposure plane). §43-301 (required open area). M1-1D zoning district.

PREMISES AFFECTED – 1214 East 15th Street, Western side of East 15th Street between Avenue L and Locust Avenue. Block 6734, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD # 14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to December 15, 2009, at 1:30 P.M., for adjourned hearing.

37-09-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Shirley Ades and Moshe Ades, owners.

SUBJECT – Application March 3, 2009 – Special Permit (§73-622) for the in-part legalization and enlargement of an existing single family home, contrary to floor area, open space and lot coverage (ZR §23-141(b)); side yard (ZR §23-461(a)) & (ZR §23-48); rear yard (ZR §23-47), and perimeter wall height (§23-631) regulations. R3-2 zoning district.

PREMISES AFFECTED – 3950 Bedford Avenue, Bedford Avenue between Avenue R and Avenue S, Block 6830, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 10, 2009, at 1:30 P.M., for decision, hearing closed.

54-09-BZ

APPLICANT – Juan D. Reyes, III/Riker Danzig et al, for Lord Shivas Properties, LLC, owner; Gab & Aud, Inc., lessee.

SUBJECT – Application April 8, 2009 – Special Permit (§73-36) to allow a physical culture establishment (*Haven Day Spa*) on the cellar level of a four-story mixed-use building. M1-5B district.

PREMISES AFFECTED – 150 Mercer Street (a/k/a 579 Broadway) Mercer Street between Prince and Houston in SoHo, block 512, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 17, 2009, at 1:30 P.M., for deferred decision.

56-09-BZ

APPLICANT – Omnipoint Communications, Inc., for The South Shore Swimming Club, Inc., owner.

SUBJECT – Application April 15, 2009 – Special Permit (§73-30) to allow a proposed non-accessory radio tower and related equipment. R3X zoning district.

PREMISES AFFECTED – 6736 Hylan Boulevard, south side of Hylan Boulevard between Culotta Lane and Page Avenue, Block 7734, Lot 50, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Robert Gaudio.

For Opposition: Julia Chazov.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins,

MINUTES

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

ACTION OF THE BOARD – Laid over to November 17, 2009, at 1:30 P.M., for decision, hearing closed.

180-09-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Steven Smith, owner.

SUBJECT – Application June 1, 2009 – Variance (§72-21) to allow for a commercial building (UG6) contrary to use regulations (§22-00). R3-1 zoning district.

PREMISES AFFECTED – 1735 Richmond Avenue, 296.35’ north of the intersection of Richmond Avenue and Croft Place, block 2072, Lot 28, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam Rothkrug.

For Administration: Anthony Scaduto, FDNY.

ACTION OF THE BOARD – Laid over to November 24, 2009, at 1:30 P.M., for continued hearing.

187-09-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Torath Israel Sephardic Congregation, owner.

SUBJECT – Application June 9, 2009 – Variance (§72-21) to permit the construction of a mikvah (ritual bath) in the proposed building (*Torath Israel Sephardic Congregation*), contrary to FAR and lot coverage (§24-11), side yard (§24-35) and rear yard (§24-36). R3-1 zoning district.

PREMISES AFFECTED – 94 Amherst Street, west side of Amherst Street, between Shore Boulevard and Hampton Avenues, Block 8726, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman, David Steiner.

For Opposition: Francene Olk.

ACTION OF THE BOARD – Laid over to November 17, 2009, at 1:30 P.M., for continued hearing.

198-09-BZ

APPLICANT – Eric Palatnik, P.C., for Chelsea Lofts Corp., owner; Personal Training Institute, lessee.

SUBJECT – Application June 29, 2009 – Special Permit (§73-36) to allow the operation of the proposed physical culture establishment (*Personal Training Institute*) on the first floor of an eight-story building. C6-3A zoning district.

PREMISES AFFECTED – 143 West 19th Street, between Sixth and Seventh Avenues, Block 795, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #4M

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 November 17, 2009, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.