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AND APPEALS

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February 5, 2009

DIRECTORY

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6-09-BZ

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9-09-BZ

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10-09-BZ

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12-09-A

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13-09-BZ

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14-09-BZ

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

CALENDAR

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

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

SPECIAL ORDER CALENDAR

218-96-BZ

APPLICANT – Mitchell S. Ross, Esq. for The Armenian Apostolic Church.

SUBJECT – Application January 16, 2009 – Extension of Time to complete construction/waiver for a one story rear enlargement above the basement of an existing community use facility (The Armenian Prelacy), which expired on January 11, 2007, located in an R8B zoning district.

PREMISES AFFECTED – 138 East 39th Street, South side, 123.4 feet east of Lexington Avenue, Block 894, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEALS CALENDAR

270-08-A

APPLICANT – NYC Department of Buildings.

OWNER OF RECORD: Johnny Ubiles.

SUBJECT – Application November 5, 2008 – An appeal seeking to revoke Certificate of Occupancy No. 200983962F issued on February 8, 2008 as it was issued in error due to failure to comply with Special Flood Hazard Area requirements as set forth in the Building Code and Department of Buildings TPPN #1/04. R3A Zoning District. PREMISES AFFECTED – 221 Betts Avenue (aka 221B Betts Avenue) west side of Betts Avenue, north of Gildersleeve Avenue, Block 3460, Lot 58, Borough of Bronx.

COMMUNITY BOARD #9BX

271-08-A

APPLICANT – NYC Department of Buildings.

OWNER OF RECORD: Pedro Febres.

SUBJECT – Application November 5, 2008 – An appeal seeking to revoke Certificate of Occupancy No. 200983962F issued on February 8, 2008 as it was issued in error due to failure to comply with Special Flood Hazard Area requirements as set forth in the Building Code and Department of Buildings TPPN #1/04. R3A Zoning District. PREMISES AFFECTED – 221 A Betts Avenue, west side of Betts Avenue, north of Gildersleeve Avenue, Block 3460, Lot 59, Borough of Bronx.

COMMUNITY BOARD #9BX

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

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

ZONING CALENDAR

133-08-BZ

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

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

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

COMMUNITY BOARD #11BX

228-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Sephardic Mikvah Israel by Isaac Hidary, owner.

SUBJECT – Application September 3, 2008 – Variance (§72-21) to permit the construction of a one-story mikvah (ritual bath). The proposal is contrary to ZR Sections 24-34 (front yards) and 24-35 (side yards). R3-2 district.

PREMISES AFFECTED – 2802 Avenue R, aka 1801-1811 East 28th Street, southeast corner of Avenue R and East 28th Street, Block 6834, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

253-08-BZ

APPLICANT – Law Office of Fredrick A. Becker for Paula Digrazia and Lisa Tapani, owner.

SUBJECT – Application October 15, 2008 – Variance (§72-21) to legalize a prior enlargement at the rear of the home and to allow for a new enlargement to an existing single family home on a narrow zoning lot. This variance seeks to vary floor area ratio, open space lot coverage (§23-141(b)); side yards (§23-461(a)) & (§23-48) and less than the required rear yard (§23-47) in an R-4 zoning district.

PREMISES AFFECTED – 2623 East 11th Street, East side of East 11th Street between Avenue Z and William Court, Block 7455, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #15BK

CALENDAR

275-08-BZ

APPLICANT – Eric Palatnik, P.C., for South Side House LLC, owner.

SUBJECT – Application November 20, 2008 – Special Permit (§73-36) to allow a physical culture establishment on the ground floor of an existing building. The proposal is contrary to ZR Section 42-10. M1-2/R6 (MX8) district.

PREMISES AFFECTED – 98 South 4th Street, south side of South 4th Street, between Bedford Avenue and Berry Street, Block 2443, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #1BK

276-08-BZ

APPLICANT – Alfonso Duarte, for Kesy LLC, owner; Beljanski Wellness Center Inc., lessee.

SUBJECT – Application November 12, 2008 – Special Permit (§73-36) to allow a physical culture establishment on the sixth floor in a seven-story office building. The proposal is contrary to ZR Section 32-10. C5-2 district.

PREMISES AFFECTED – 150 East 55th Street, south side, 155' east of Lexington Avenue, Block 1309, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6M

291-08-BZ

APPLICANT – Moshe M. Friedman, for Eva Hershovic, owner.

SUBJECT – Application November 24, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area ration (§23-141(a)) and less than the required rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 3141 Bedford Avenue, West side 140' south of the intersection of Bedford Avenue & Avenue J, Block 7607, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, JANUARY 27, 2009
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

241-47-BZ

APPLICANT – Sheldon Lobel, P.C., for Marin Vajanc, owner.

SUBJECT – Application July 24, 2008 – Extension of Term and Amendment filed pursuant to §§11-411 & 11-413 requesting an extension of the variance previously granted by the Board of Standards and Appeals which expired on January 29, 2004. The application seeks a change in use from knitting mill (Use Group 17) to a contractor's establishment (Use Group 17). The site is located in an R5B zoning district.

PREMISES AFFECTED – 16-23/25 Hancock Street, West side of Hancock Street approximately 245' north of Wycoff Street, Block 3548, Lot 97, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Elizabeth Saphire.

ACTION OF THE BOARD – Laid over to March 3, 2009, at 10 A.M., for continued hearing.

889-55-BZ

APPLICANT – J & H Management Corporation, owner.

SUBJECT – Application October 22, 2008 – Application filed pursuant to §11-411 to extend the term of Automotive Repair Facility for 10 years which expired on May 1, 2008. The application seeks a Waiver of the Rules of Practice and Procedure for an Extension of Time to obtain a Certificate of Occupancy. The subject site is located in a C1-2/R3-2 zoning district.

PREMISES AFFECTED – 69-15 164th Street, Block 9631, Lot 38, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Irene Fisher.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

719-56-BZ

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

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

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

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Cindy Bachan.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

239-97-BZ

APPLICANT – Kenneth H. Koons, for B.W. Partners Incorporated, owner.

SUBJECT – Application September 3, 2008 – Extension of Term for a UG16 automotive service station and UG8 parking lot, in an R-6 zoning district, which expires on July 13, 2009.

PREMISES AFFECTED – 1499 Bruckner Boulevard, north west corner of Wheeler Avenue, Block 3712, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Rod Saunders.

ACTION OF THE BOARD – Laid over to February 3, 2009, at 10 A.M., for deferred decision.

124-99-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for BLDG Management Company, Incorporated; New York Sports Club, lessee.

SUBJECT – Application November 8, 2008 – Extension of the term of a previously granted special permit allowing the operation of a physical culture establishment health club in portions of the cellar and first floor of an existing twenty story commercial building located in a C6-6 (Mid) zoning district.

PREMISES AFFECTED – 1372 Broadway, Easterly side of Broadway between West 37th and West 38th Streets, Block 813, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

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

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

217-03-BZ

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

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

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

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Elizabeth Sapphire.

ACTION OF THE BOARD – Laid over to February 24, 2009, at 10 A.M., for continued hearing.

51-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rivoli Realty Corporation, owner.

SUBJECT – Application – Extension of Time to obtain a Certificate of Occupancy for a previously granted Variance (§72-21) to permit the operation of a PCE in a portion of the cellar and the legalization of a dance studio in the cellar and first floor of an existing commercial building, in an C1-2/R2 zoning district, which expired on December 12, 2008.

PREMISES AFFECTED – 188-02/22 Union Turnpike, south side of Union Turnpike between 188th and 189th Street, Block 7266, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

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

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

APPEALS CALENDAR

120-08-A

APPLICANT – Law Office of Fredrick A. Becker, for Harmanel, LLC, owner.

SUBJECT – Application April 24, 2008 – Appeal seeking the determination that the owner has acquired a common law vested right to continue development commenced under the prior C2-4 /R6 zoning district regulations. C2-4 in R6B Zoning District.

PREMISES AFFECTED – 186 Grand Street, south side of Grand Street, between Bedford Avenue and Driggs Avenue, Block 2393, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Appeal granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, this is an appeal requesting a Board determination that the owner of the premises has obtained the right to complete construction of a proposed development of a four-story and penthouse mixed-use residential/commercial building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on November 25, 2008, after due notice by publication in *The City Record*, with continued hearings on December 16, 2008 and January 13, 2009, and then to decision on January 27, 2009; and

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

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of Grand Street between Bedford Avenue and Driggs Avenue, within an R3A zoning district; and

WHEREAS, the subject site has a frontage of 53 feet and a depth of 100 feet, and a total lot area of 5,450 sq. ft.; and

WHEREAS, the site is proposed to be developed with a four-story and penthouse mixed-use residential/commercial building (the “Building”); and

WHEREAS, the Building is proposed to have a total floor area of approximately 11,945 sq. ft. (2.2 FAR); and

WHEREAS, the site was formerly located within a C2-4 (R6) zoning district; and

WHEREAS, on December 5, 2007, New Building Permit No. 302220228-01-NB (the “Permit”) was issued by the Department of Buildings (“DOB”) permitting construction of the Building, and work commenced on December 21, 2007; and

WHEREAS, on March 26, 2008 (hereinafter, the “Enactment Date”), the City Council voted to enact the Grand

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Street Rezoning, which changed the zoning district to C2-4 (R6B); and

WHEREAS, the applicant represents that the Building complies with the former C2-4 (R6) zoning district parameters; specifically, the proposed 2.2 FAR, base height of 43'-6", and total building height of 53'-6" were permitted; and

WHEREAS, because the site is now within a C2-4 (R6B) zoning district, the Building would not comply with the maximum FAR of 2.0, the maximum base height of 40'-0", or the maximum total building height of 50'-0"; and

WHEREAS, because the Building is not in compliance with these provisions of the C2-4 (R6B) zoning district and work on the foundation was not completed as of the Enactment Date, the Permit lapsed by operation of law; and

WHEREAS, additionally, DOB issued a Stop Work Order ("SWO") on March 27, 2008 halting work on the building; and

WHEREAS, it is from this order that the applicant appeals; and

WHEREAS, the applicant requests that the Board find that based upon the amount of financial expenditures, including irrevocable commitments, and the amount of work completed, the owner has a vested right to continue construction and finish the proposed development; and

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

WHEREAS, by letter dated November 20, 2008, DOB stated that the Permit was lawfully issued on December 5, 2007, authorizing construction of the proposed Building prior to the Enactment Date; and

WHEREAS, the Permit lapsed by operation of law on the Enactment Date because the plans did not comply with the new C2-4 (R6B) zoning district regulations and DOB determined that the Building's foundation was not complete; and

WHEREAS, thus, the Board finds that the Permit was validly issued by DOB to the owner of the subject premises and was in effect until its lapse by operation of law on March 26, 2008; and

WHEREAS, however, on April 24, 2008, the applicant amended the building plans under a post approval amendment ("PAA") to reflect a four-story building that complies with the C2-4 (R6B) zoning district regulations; and

WHEREAS, the applicant continued as-of-right construction at the site pursuant to the PAA; and

WHEREAS, the validity of the Permit has not been challenged; and

WHEREAS, the Board notes that the applicant has submitted a request to DOB to withdraw the PAA, in order to pursue its claim that the Permit has vested pursuant to the common law of vested rights; and

WHEREAS, the Board notes that any work performed after the Enactment Date (and pursuant to the PAA) cannot be considered for vesting purposes; accordingly, only the work performed pursuant to the Permit has been considered; and

WHEREAS, the Board notes that when work proceeds under a valid permit, a common law vested right to continue construction generally exists where: (1) the owner has

undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10, 15, 382 N.Y.S.2d 538, 541 (2d Dept. 1976) stands for the proposition that where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance;" and

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

WHEREAS, as to substantial construction, the applicant states that prior to the Enactment Date, the following work was completed: (1) 100 percent of the excavation; (2) 50 linear feet of underpinning along the western property line, constituting 100 percent of the underpinning; (3) 83 linear feet of shoring along the northern and western property lines, constituting 100 percent of shoring; and (4) approximately 27 cubic yards of concrete poured for the footings, constituting approximately 58 percent of the concrete for the footings; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: concrete pour tickets, photographs of the site, a timetable of the work performed, cancelled checks, accounting tables, and invoices for labor and materials; and

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

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

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

WHEREAS, the applicant states that prior to the lapse of the Permit, the owner expended \$330,996.26, including hard and soft costs and irrevocable commitments for the entire project, out of the approximately \$2,600,000 budgeted for the

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proposed development; and

WHEREAS, as proof of the expenditures, the applicant has submitted invoices, receipts, and cancelled checks; and

WHEREAS, in relation to actual construction costs and related soft costs, the applicant specifically notes that the owner had paid \$254,418.28 for excavation, underpinning, shoring, foundation work, environmental remediation, and architectural and engineering fees prior to the Enactment Date; and

WHEREAS, the applicant states that the owner paid an additional \$64,850.94 after the Enactment Date for costs that were committed to the development under irrevocable contracts executed prior to that date; and

WHEREAS, the applicant further states that the owner also irrevocably owes an additional \$11,727.04 in connection with work performed at the site prior to the Enactment Date, which has not yet been paid; and

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

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

WHEREAS, as to the serious loss finding, the applicant contends that the loss of floor area that would result if vesting were not permitted is significant; and

WHEREAS, the applicant states that the decrease in the permissible FAR and building height under the new zoning would result in a 1,000 sq. ft. reduction in floor area, constituting approximately 14 percent of the sellable floor area; and

WHEREAS, the applicant represents that the loss of floor area and the reduction in the building height would result in the elimination of the penthouse, a decrease in the number of bedrooms and bathrooms in two of the units, a loss of private outdoor space, and a reduction in the height of the residential units on the second through fourth floors; and

WHEREAS, the applicant submitted a statement from a real estate broker, estimating the sales price of the penthouse floor area at \$780 per sq. ft. and the total loss attributable to the reduction in floor area and building height at \$1,126,710; and

WHEREAS, the applicant further states that the owner paid an additional \$1,490 in architectural fees to redesign the building in order to obtain the PAA, and that the \$50,000 in savings attributable to the use of the existing foundation would not offset the \$1,078,200 loss created by the reduction in floor area and building height of a complying building; and

WHEREAS, a serious loss determination may be based in part upon a showing that certain of the expenditures could not be recouped if the development proceeded under the new zoning, but in the instant application, the determination is also grounded on the applicant's discussion of the diminution in income that would occur if the FAR and building height of the

new zoning were imposed; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed, the expenditures made, and serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building had accrued to the owner of the premises as of the date the Permit lapsed by operation of law; and

WHEREAS, accordingly, based upon its consideration of the arguments made by the applicant, as well as its consideration of the entire record, the Board finds that the owner has met the standard for vested rights under the common law and is entitled to the reinstatement of the Permit, and all other related permits necessary to complete construction; and

WHEREAS, the Board notes that the applicant will withdraw the PAA and re-establish the Permit under DOB's direction.

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a reinstatement of New Building Permit No. 302220228, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted, and the Board hereby extends the time to complete the proposed development for two years from the date of this resolution, to expire on January 27, 2011.

Adopted by the Board of Standards and Appeals, January 27, 2009.

261-08-BZY

APPLICANT – Eric Palatnik, P.C., for Henry Zheng, owner.
SUBJECT – Application October 21, 2008 – Extension of time to complete construction (§11-331) of a minor development commenced prior to the amendment of the zoning district regulations. R7B/C1-3.

An appeal seeking a determination that the owner of the premises has acquired a common law vested right to continue the development commenced under the prior R7-1/C1-2 Zoning District.

PREMISES AFFECTED – 140-75 Ash Avenue, between Kissena Boulevard and Bowne Streets, Block 5182, Lot 34, Borough of Queens.

COMMUNITY BOARD # 7Q

APPEARANCES –

For Applicant: Trevis Sauage.

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 under ZR §11-331 to renew a building permit and extend the time for the completion of the foundation of a seven-story mixed-use

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residential/commercial/community facility building; and

WHEREAS, this application was heard concurrently with a companion application under BSA Cal. No. 262-08-A, withdrawn prior to the date of decision, which was a request for a finding that the owner of the site has obtained a vested right to continue construction under the common law; and

WHEREAS, a public hearing was held on this application on December 16, 2008, after due notice by publication in *The City Record*, with a continued hearing on January 13, 2009, and then to decision on January 27, 2009; and

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

WHEREAS, Community Board 7, Queens, recommends disapproval of this application, citing concerns about neighborhood character and questioning whether substantial progress was made on the foundations; and

WHEREAS, the subject site is located on the north side of Ash Avenue between Kissena Boulevard and Bowne Street; and

WHEREAS, the site has a frontage of 100 feet and a depth of approximately 96 feet, and a total lot area of approximately 9,614 sq. ft.; and

WHEREAS, the site is proposed to be developed with a seven-story mixed-use building (the "Building") with commercial use on the first floor, community facility use on the second floor, and residential use on the third through seventh floors; and

WHEREAS, the Building is proposed to have a total floor area of 46,133 sq. ft. (4.8 FAR) and a total residential floor area of approximately 33,007 sq. ft. (3.43 FAR); and

WHEREAS, the site was formerly located within a C1-2 (R7-1) zoning district; and

WHEREAS, on April 28, 2008, New Building Permit No. 402510216-01-NB (the "Permit") was issued by the Department of Buildings ("DOB") permitting construction of the Building, and work commenced on May 12, 2008; and

WHEREAS, on September 24, 2008 (hereinafter, the "Enactment Date"), the City Council voted to enact the Waldheim Rezoning, which changed the zoning district to C1-3 (R7B); and

WHEREAS, the applicant represents that the Building complies with the former C1-2 (R7-1) zoning district parameters; specifically, the proposed FAR of 4.8; and

WHEREAS, because the site is now within a C1-3 (R7B) zoning district, the Building would not comply with the maximum FAR of 3.0; and

WHEREAS, because the Building is not in compliance with this provision of the C1-3 (R7B) zoning district and work on the foundation was not completed as of the Enactment Date, the Permit lapsed by operation of law; and

WHEREAS, additionally, DOB issued a Stop Work Order on September 25, 2008 halting work on the building; and

WHEREAS, the applicant now applies to the Board to reinstate the Permit pursuant to ZR § 11-331, so that the proposed development may be fully constructed under the parameters of the prior C1-2 (R7-1) zoning district; and

WHEREAS, ZR § 11-331 reads: "If, before the

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

WHEREAS, a threshold requirement in this application is that the Permit is valid; and

WHEREAS, ZR § 11-31(a) provides that "[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;" and

WHEREAS, the record indicates that the Permit was issued to the owner by DOB on April 28, 2008, authorizing construction of the proposed Building; and

WHEREAS, by letter dated December 12, 2008, DOB states that the Permit was lawfully issued on April 28, 2008; and

WHEREAS, DOB initiated an audit of the Permit on November 14, 2008, and certain zoning and Building Code objections were raised (the "Objections"); and

WHEREAS, on November 18, 2008, DOB issued a letter to the owner providing notice of its intent to revoke the Permit based on the Objections; and

WHEREAS, on December 12, 2008, DOB issued a letter indicating that all of the objections identified by the audit had been satisfied by the owner; and

WHEREAS, thus, the Board finds that the Permit was lawfully issued by DOB on April 28, 2008; and

WHEREAS, accordingly, the Board finds that the record contains sufficient evidence to satisfy the findings set forth in ZR § 11-31(a) and that a decision may be rendered provided the other findings are met; and

WHEREAS, because the proposed development contemplates construction of one building, it meets the definition of minor development; and

WHEREAS, since the proposed development is a minor development, the Board must find that excavation was completed and substantial progress was made as to the

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required foundation; and

WHEREAS, the applicant states that excavation began on June 3, 2008 and was completed on June 23, 2008, and that substantial progress was made on the foundation as of the Enactment Date; and

WHEREAS, in support of this statement, the applicant has submitted construction logs documenting the amount and type of work performed each day of construction, and dated photographs of the site showing the progress of excavation; and

WHEREAS, the Board finds that the excavation performed at the site for the foundation of the Building is complete for vesting purposes under ZR § 11-331; and

WHEREAS, as to substantial progress on the foundation, the applicant represents that the foundation was 79 percent complete as of the Enactment Date; and

WHEREAS, specifically, the applicant states that as of the Enactment Date, the following work had been completed: (1) 320 linear feet of shoring, constituting 100 percent of shoring; (2) 100 cubic yards of underpinning, constituting 100 percent of underpinning; (3) 378 cubic yards of concrete was poured and 37 tons of rebar was installed for footings, constituting 75 percent of the footings; and (4) 134 cubic yards of concrete was poured and 12.5 tons of rebar was installed for the foundation walls, constituting 50 percent of the foundation walls; and

WHEREAS, in support of this statement, the applicant has submitted concrete pour tickets, a pile log, and photographs of the foundation work as of the Enactment Date; and

WHEREAS, the applicant has also submitted financial documents indicating that the applicant spent \$577,650, or approximately 79 percent of the total estimated foundation cost of \$733,800 as of the Enactment Date; and

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

WHEREAS, the Community Board noted that it found the data submitted by the applicant to be confusing, and that it therefore believed that substantial progress had not been made on the foundation as of the Enactment Date; and

WHEREAS, in response, the applicant submitted a revised "Foundation Component Summary Chart," clarifying the work performed and expenditures made as of the Enactment Date; and

WHEREAS, the Board has reviewed all of the applicant's representations and the submitted evidence and agrees that it establishes that substantial progress was made on the required foundation as of the Enactment Date; and

WHEREAS, accordingly, based upon its consideration of the arguments made by the applicant as outlined above, as well as its consideration of the entire record, the Board finds that the owner has met the standard for vested rights under ZR § 11-331 and is entitled to the requested reinstatement of the Permit, and all other related permits necessary to complete construction.

WHEREAS, because the Board finds that excavation was complete and that substantial progress had been made on the foundation, it concludes that the applicant has adequately

satisfied all the requirements of ZR § 11-331.

Therefore it is Resolved that this application to renew New Building Permit No. 402510216-01-NB pursuant to ZR § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of six months from the date of this resolution, to expire on July 27, 2009.

Adopted by the Board of Standards and Appeals, January 27, 2009.

262-08-A

APPLICANT – Eric Palatnik, P.C., for Henry Zheng, owner.
SUBJECT – Application October 21, 2008 – Extension of time to complete construction (§11-331) of a minor development commenced prior to the amendment of the zoning district regulations. R7B/C1-3.

An appeal seeking a determination that the owner of the premises has acquired a common law vested right to continue the development commenced under the prior R7-1/C1-2 Zoning District.

PREMISES AFFECTED – 140-75 Ash Avenue, between Kissena Boulevard and Bowne Streets, Block 5182, Lot 34, Borough of Queens.

COMMUNITY BOARD # 7Q

APPEARANCES –

For Applicant: Trevis Saugage.

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, January 27, 2009.

153-08-A & 154-08-A

APPLICANT – Philip L. Rampulla, for Richard Salomone, owner.

SUBJECT – Application May 30, 2008 – Proposed construction not fronting on a legally mapped street contrary to General City Law Section 36. R1-2 Zoning District

PREMISES AFFECTED – 156 & 150 Forest Road, northwest of Dalemere Road, Block 869, Lots 50, 63 (Tent. 54,52), Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Philip L. Rampulla.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to February 3, 2009, at 10 A.M., for decision, hearing closed.

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168-08-A

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

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

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

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Peter Geis and Howard Hornstein.

ACTION OF THE BOARD – Laid over to March 3, 2009, at 10 A.M., for continued hearing.

Jeffrey Mulligan, Executive Director

Adjourned: A.M.

REGULAR MEETING TUESDAY AFTERNOON, JANUARY 27, 2009 1:30 P.M.

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

ZONING CALENDAR

119-07-BZ

CEQR #07-BSA-084K

APPLICANT – Sheldon Lobel, P.C., for SCO Family of Services, owner.

SUBJECT – Application May 11, 2007 – Variance under (§72-21) to allow a four-story community facility building (UG4A) to violate regulations for use (§42-10), rear yard (§43-26) and parking (§44-21). M1-2 district.

PREMISES AFFECTED – 443 39th Street, northern side of 39th Street, midblock between 4th Avenue and 5th Avenue, Block 705, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #7BK

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 Brooklyn Borough Commissioner, dated April 12, 2007, acting on Department of

Buildings Application No. 302325936, reads in pertinent part:

“Proposed conversion of commercial building to permit community facility use (Use Group 4A) in an M1-2 zoning district:

- is contrary to ZR Section 42-10 as the proposed use is not permitted as of right;
 - is contrary to ZR Section 44-21 as less than the minimum required parking spaces are provided;”
- and

WHEREAS, this is an application under ZR § 72-21, to permit, within an M1-2 zoning district, the legalization, conversion and enlargement of an existing three-story and mezzanine commercial building to a four-story community facility without parking, which is contrary to ZR §§ 42-10 and 44-21; and

WHEREAS, a public hearing was held on this application on January 29, 2007, after due notice by publication in the *City Record*, with continued hearings on March 18, 2008, June 17, 2008, August 19, 2008, October 28, 2008 and December 9, 2008, and then to decision on January 27, 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 7, Brooklyn, recommends approval of the application; and

WHEREAS, the application is brought on behalf of SCO Family of Services (“SCO”), a nonprofit social services organization; the building is proposed to be occupied by the Center for Family Life (“CFL”), a member organization of SCO; and

WHEREAS, the site is located on the north side of 39th Street, between Fourth Avenue and Fifth Avenue, within an M1-2 zoning district and has a lot area of 4,000 sq. ft.; and

WHEREAS, the site is occupied by a three-story and mezzanine commercial building with a floor area of 7,940 sq. ft.; and

WHEREAS, the existing building was built in 2001 and was initially occupied by a commercial use and by SCO as a site for employment and educational services for youth and adults; and

WHEREAS, SCO purchased the building in 2006; and

WHEREAS, SCO proposes to convert the building to a Use Group 4A community facility and to enlarge it by converting a first floor accessory parking area to office space and expanding a mezzanine level to a full third floor; and

WHEREAS, the building is proposed to have a community facility floor area of 15,120 sq. ft. (3.78 FAR) and no parking spaces (21 are required); and

WHEREAS, the applicant initially sought a variance to ZR § 43-26, as the building does not provide the required 20 foot rear yard; and

WHEREAS, the rear lot line of the subject site coincides with a boundary of a railroad right-of-way, thus, pursuant to ZR § 43-29 no rear yard is required; and

WHEREAS, applicant secured a pre-consideration from DOB confirming that no rear yard was required due to the

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adjacent railroad right of way, and withdrew the variance request; and

WHEREAS, the applicant represents that the variance request is necessitated by the unique conditions of the site that create an unnecessary hardship, specifically: (1) the inability to develop the site for a conforming use; and (2) the programmatic needs of SCO; and

WHEREAS, the applicant states that the small size of the site is a unique physical condition that creates an unnecessary hardship in developing the site in conformance with applicable regulations; and

WHEREAS, the applicant states that the site has a lot size of 4,000 sq. ft. which is too small to be feasible for a conforming manufacturing use; and

WHEREAS, as to the uniqueness of this condition, the applicant submitted a survey of the area bounded by Third Avenue to the west, Sixth Avenue to the east, 37th Street to the north, and 40th Street to the south, identifying the land uses of the properties within the study area; and

WHEREAS, the survey indicates 53 of the 142 properties within the study area were used for a conforming use, and that 27 of the 53 sites are comparable in size or smaller than the subject site; and

WHEREAS, the applicant represents that among the 27 conforming small sites, seven, constituting fewer than five percent of the lots within the study area had been developed for a conforming use within the past thirty years; and

WHEREAS, the Board notes that a finding of uniqueness, does not require that a given parcel be the only property so burdened by the condition(s) giving rise to the hardship, only that the condition is not so generally applicable as to dictate that the grant of a variance to all similarly situated properties would effect a material change in the district's zoning (see *Douglaston Civ. Assn. v. Klein*, 51 N.Y.2d 963, 965 (1980)); and

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

WHEREAS, the applicant states that the following are the programmatic needs which require the requested waivers: (i) the need for more space for service delivery; and (ii) the need for a location proximate to its headquarters; and

WHEREAS, as to the need for greater space, the applicant represents that because of the demographics of the community, there is a significant demand for employment, job training and English as a Second language ("ESL") services; and

WHEREAS, the applicant states that according to the 2000 Census, the community is predominately low-income, with 56 percent of households earning less than \$35,000 annually and one-third of all families with children living below the poverty line; and

WHEREAS, the applicant further states that the surrounding community is also characterized by low levels of educational attainment, with nearly half the persons over

the age of 16 failing to graduate from high school, and a large number of non-English speaking residents; and

WHEREAS, the applicant states its mission is to provide employment and training programs to youth and adults in the Sunset Park community and that 95 percent of its clients live in the surrounding neighborhood; and

WHEREAS, the applicant states because of the limited floor area of the existing building, it can serve only 1,200 persons annually; and

WHEREAS, the applicant further states that, as a result of its limited floor area, it provides ESL classes in a classroom of 304 sq. ft., computer training in a 293 sq. ft. lab; a job search resources in a 423 sq. ft. area and job readiness training in a 463 sq. ft. area; and

WHEREAS, the applicant represents that the small size of each program space limits the number of persons that can be served at the same time, thereby reducing the efficiency of its program and adding to its staff expense; and

WHEREAS, the applicant proposes to expand the number of persons served by its existing youth and adult employment programs, and English as a Second Language program; and

WHEREAS, the applicant states that the requested variances to parking and use will allow it to provide employment and training services to 500 additional families at the subject site; and

WHEREAS, at hearing, the Board requested additional information as to the proposed utilization of the program space; and

WHEREAS, in response, the applicant submitted floor plans indicating the specific allocation of space within the proposed building and a table showing the floor-by-floor square footage allocation of its programs; and

WHEREAS, according to the space breakdown, the proposed uses consist of office space for counseling and administrative services and classroom space for computer training, ESL, writing and language labs; and

WHEREAS, at hearing, the Board questioned the need for additional space, given that space occupied by two other nonprofit organizations at the subject building could be reallocated to the applicant; and

WHEREAS, the applicant states that SCO intends to recapture the spaces occupied by the two organizations when their leases expire and that, in the meantime, the tenant organizations provide ancillary mental health and housing counseling, and financial literacy services to SCO's clients; and

WHEREAS, the applicant further represents that the SCO also has a programmatic need to develop its satellite facility in close proximity to the Center for Family Life ("CFL") headquarters located at 345 43rd Street in Sunset Park; and

WHEREAS, the applicant states that the two centers share resources, including staff and training materials, and many clients attend classes at both centers; and

WHEREAS, the headquarters also provides a wide range of additional services, including parenting skills programs, workers' cooperatives, and a family counseling

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program that also must be conveniently located to serve the clients at the subject building; and

WHEREAS, the CFL headquarters is located four blocks from the subject building; and

WHEREAS, the applicant initially asserted that it was entitled to deference as an educational institution, or as a religious institution, due to its affiliation with the Roman Catholic Archdiocese of Brooklyn, whereby the requisite finding under ZR § 72-21(a) could be established by a showing that the proposed project furthers its mission; and

WHEREAS, however, the Board found that the applicant failed to qualify as an educational institution pursuant to ZR § 12-10, nor as a religious institution as defined by well-settled case law, and asked the applicant to establish the practical difficulty inherent in the site that prevents its development for a conforming use; and

WHEREAS, the Board agrees that the unique physical conditions cited above, when considered in the aggregate and in light of the applicant's programmatic needs, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; thereby meeting the required finding under ZR § 72-21(a); and

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

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

WHEREAS, the applicant submitted a breakdown of the various uses in the vicinity of the site which reflects a mix of commercial and residential uses; and

WHEREAS, the applicant further states that the two blocks to the east and west of the subjects site are located partially within R6 districts where the proposed Use Group 4A is permitted as of right, and that many of the lots adjacent to and across from the premises are developed with residential buildings; and

WHEREAS, the applicant states that the proposed community facility use is consistent with the character of the area; and

WHEREAS, the applicant represents that the Use Group 4A use would be permitted by a City Planning Commission special permit under ZR § 74-921 which permits community facility uses in M1 zoning districts provided that certain findings are made; and

WHEREAS, the Board notes that the proposed floor area is within the parameters for a community facility use under ZR § 74-921; and

WHEREAS, the applicant further represents that because its programmatic need for greater floor area necessitates a parking waiver, the request for a variance pursuant to ZR § 72-21 was filed instead of the special permit under ZR § 74-921; and

WHEREAS, the Board agrees that the character of the area is mixed-use, and finds that the community facility use

will not impact nearby conforming uses; and

WHEREAS, the applicant represents that the parking waiver will not impact the surrounding neighborhood because 95 percent of the clients live in the Sunset Park neighborhood and the rate of car ownership is low; and

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

WHEREAS, the applicant states that the hardship is inherent in the site's physical conditions and in its consequential inability to satisfy the programmatic needs of the applicant; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is caused by the size of the site, which renders it too small to be feasibly used for a conforming use, and by the applicant's programmatic needs; and

WHEREAS, the applicant represents that the height and bulk of the proposed building will be unchanged and that the floor area will remain below the maximum permitted FAR of 4.8; and

WHEREAS, the Board observes that the proposed use and bulk of the enlarged building is limited in scope and compatible with nearby development; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA0854K, dated May 10, 2007; and

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

WHEREAS, the Office of Environmental Planning and Assessment of the Department of Environmental Protection ("DEP") has reviewed the following submissions from the Applicant: (1) August 2006 Phase I Environmental Site Assessment; (2) the May 2007 Environmental Assessment Statement; (3) a September 2008 Phase II Investigation Workplan; (4) a December 2008 Phase II Soil Vapor Intrusion Investigation Report; and (5) September 2008, October 2008, and December 2008 air permit search submissions; and

WHEREAS, the Phase II Soil Vapor Intrusion

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Investigation Report demonstrates that the proposed project would not pose a potential environmental or health risk to workers or future occupants of the site; DEP therefore determined that this project would not result in a significant adverse hazardous materials impact; and

WHEREAS, DEP determined that the air permit search submissions showed that all permitted emission sources within a 400-foot radius of the project site screen out the need for further stationary source analysis; and

WHEREAS, the maximum hourly incremental traffic from the proposed project was determined to be less than the mobile source screening threshold set forth in the CEQR Technical Manual, and therefore the project is not expected to create significant adverse impacts from mobile source emissions; and

WHEREAS, the proposed project would not result in any significant adverse air quality impacts; and

WHEREAS, based on noise measurements performed, the environmental assessment determined that a noise attenuation of 35 dBA would be required to achieve an interior noise level of 45 dBA or less in a closed window condition; and

WHEREAS, with the use of windows with a minimum outdoor/indoor transmission class ("OITC") rating of 35 for all facades, the building would not result in any significant adverse noise impacts; 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, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, within an M1-2 zoning district, the legalization, conversion and enlargement of a three-story and mezzanine commercial building to a four-story community facility without parking, which is contrary to ZR §§ 42-10 and 44-21, *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 May 11, 2008"– one (1) sheets, "Received January 13, 2009"– seven (7) sheets, and "Received January 23, 2009"– two (2) sheets; and *on further condition*:

THAT the following shall be the parameters of the proposed building: four stories and a community facility floor area of 15,120 sq. ft. (3.78 FAR);

THAT no parking will be provided;

THAT, all windows on the building's façade shall have a minimum OITC (outdoor/indoor transmission class) rating of 35;

THAT this approval is limited to the relief granted by the

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

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

THAT prior to the issuance of any permits, DOB shall review the plans for compliance with all relevant light, air, and egress regulations;

THAT a certificate occupancy shall be obtained by January 27, 2011; 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, January 27, 2009.

42-08-BZ

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

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

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

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

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 February 11, 2008, acting on Department of Buildings Application No. 310064471, reads in pertinent part:

1. ZR 23-141(b). The proposed total floor area exceeded the permitted floor area.
2. ZR 23-141(b). The proposed lot coverage exceeded the permitted lot coverage.
3. ZR 23-141(b). The proposed open space is inadequate.
4. ZR 23-47. The proposed rear yard (22'-0") is contrary to the permitted;" and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R3-1 zoning district, the proposed enlargement of an existing two-family residence to be converted into a single-family home, which does not comply with the zoning requirements for floor area, lot

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coverage, open space and rear yard, contrary to ZR §§ 23-141(b) and 23-47; and

WHEREAS, a public hearing was held on this application on July 22, 2008, after due notice by publication in *The City Record*, with continued hearings on September 9, 2008, October 28, 2008 and November 25, 2008, and then to decision on January 27, 2009; and

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

WHEREAS, Community Board 15, Brooklyn, recommends disapproval of this application; and

WHEREAS, residents of the Manhattan Beach community provided testimony in opposition to the proposal (hereinafter, the "Opposition"); and

WHEREAS, the subject site is located on the west side of Girard Street, between Hampton Avenue and Oriental Boulevard, in an R3-1 zoning district; and

WHEREAS, the subject site has a total lot area of 6,240 sq. ft., and is occupied by a two-family home with a floor area of approximately 3,657 sq. ft. (0.59 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from approximately 3,657 sq. ft. (0.59 FAR), to approximately 6,160 sq. ft. (0.99 FAR); the maximum floor area permitted is approximately 3,744 sq. ft. (0.60 FAR); and

WHEREAS, the proposed enlargement provides approximately 42 percent of lot coverage (a maximum of 35 percent is permitted) and approximately 58 percent of open space (a minimum of 65 percent is required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 22'-0" (a minimum rear yard of 30'-0" is required); and

WHEREAS, during the course of the public hearings, the Opposition provided testimony disputing the applicant's ownership of a strip of land which extends east from the rear lot line to a depth of 4'-0", claiming that the actual depth of the subject site is 100'-0", rather than 104'-0"; and

WHEREAS, the Opposition argues that the floor area of the proposed home is based on the 60'-0" by 104'-0" lot and the applicant should not be entitled to the increased floor area generated from the 60'-0" by 4'-0" strip of land which it allegedly does not own; and

WHEREAS, the Board notes that the Department of Finance has amended the tax map for the subject site to reflect a depth of 104'-0", and that the applicant provided evidence that real estate taxes were paid on the disputed 60'-0" by 4'-0" strip of land for fiscal year 2007/2008; and

WHEREAS, in addition, the applicant submitted a 1979 survey, a 2006 survey, and a policy of title insurance indicating that the depth of the subject zoning lot is 104'-0"; and

WHEREAS, in response to the Opposition's claims, the applicant initially provided a 2005 deed indicating that

the dimensions of the property measured 60'-0" by 100'-0", and subsequently provided a title report and a correction deed that indicate the boundaries to be 60'-0" by 104'-0"; and

WHEREAS, the Board notes that the information provided does not firmly establish the depth of the of the subject lot at 104'-0", further, the title report did not substantiate the increase from 100'-0" to 104'-0"; and

WHEREAS, the Board therefore rejects the submission of the title report and correction deed as inconclusive; and

WHEREAS, the Board further notes that, while it has received the aforementioned documents concerning fee title ownership, a determination regarding title is outside the scope of its jurisdiction; and

WHEREAS, the submission of the tax map showing the dimensions of the subject property is sufficient to establish the dimensions of the subject site for the purposes of filing an application for a special permit; and

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

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

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

WHEREAS, the Board finds that the proposed project will not interfere with any pending public improvement project; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R3-1 zoning district, the proposed enlargement of an existing two-family residence to be converted into a single-family home, which does not comply with the zoning requirements for floor area, lot coverage, open space and rear yard, contrary to ZR §§ 23-141(b) 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 August 20, 2008"-(10) sheets and "Received October 14, 2008"; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of approximately 6,160 sq. ft.; a lot coverage of approximately 42 percent; an open space of

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approximately 58 percent; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 27, 2009.

251-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Cynthia Esses, owner.

SUBJECT – Application October 10, 2008 – Special Permit (§73-622) for the enlargement of an existing one family residence. This application seeks to vary side yards (§23-48) and less than the required rear yard (§23-47) in an R5 (OP) Special Ocean Parkway District.

PREMISES AFFECTED – 2153 Ocean Parkway, east side of Ocean Parkway between Avenue U and Avenue V, Block 7133, Lot 50, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated September 22, 2008, acting on Department of Buildings Application No. 310191360, reads in pertinent part:

“The proposed enlargement of the existing one family residence in an R5 zoning district:

1. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of Section 23-48 of the Zoning Resolution.
2. Creates non-compliance with respect to the rear yard by not meeting the minimum

requirements of Section 23-47 of the Zoning Resolution;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R5 zoning district within the Special Ocean Parkway District and partially within the Ocean Parkway Sub-district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for side yards and rear yard, contrary to ZR §§ 23-48 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2008, after due notice by publication in *The City Record*, and then to decision on January 27, 2009; and

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

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Ocean Parkway, between Avenue U and Avenue V, in an R5 zoning district within the Special Ocean Parkway District and partially within the Ocean Parkway Sub-district; and

WHEREAS, the applicant represents that, because only a portion of the zoning lot extending five feet from the rear lot line is within the Ocean Parkway Sub-district, and the distance from the lot line to the mapped district boundary is less than 25 feet, pursuant to ZR § 77-11, the regulations of the Ocean Parkway Sub-district are inapplicable; and

WHEREAS, the applicant further represents that the regulations of the Special Ocean Parkway District do not affect the instant proposal; and

WHEREAS, the subject site has a total lot area of 3,445 sq. ft., and is occupied by a single-family home with a floor area of 2,311 sq. ft. (0.67 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,311 sq. ft. (0.67 FAR), to approximately 3,647 sq. ft. (1.06 FAR); the maximum floor area permitted is approximately 4,306 sq. ft. (1.25 FAR); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard with a width of 2’-6” along the northern lot line (two side yards, each with a minimum width of 5’-0” are required); and

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

WHEREAS, 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

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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, in an R5 zoning district within the Special Ocean Parkway District and partially within the Ocean Parkway Sub-district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for side yards and rear yard, contrary to ZR §§ 23-48 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 October 10, 2008”–(9) sheets and “Received December 30, 2008”–(2) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a side yard with a minimum width of 2’-6” along the northern lot line, and a rear yard with a minimum depth of 20’-0”, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction 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, January 27, 2009.

257-08-BZ

CEQR #09-BSA-037M

APPLICANT – Slater & Beckerman, LLP, for 120 East 56th Street, LLC, owner; Susan Ciminelli, Inc., lessee.

SUBJECT – Application October 17, 2008 – Special Permit (§73-36) to allow a Physical Culture Establishment on the second floor in an existing 15-story commercial building.

The proposal is contrary to ZR Section 32-10. C5-2 district. PREMISES AFFECTED – 120 East 56th Street, between Park Avenue and Lexington Avenue, Block 1310, Lot 65, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Joshua Trauner.

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 Manhattan Borough Superintendent, dated December 12, 2008, acting on Department of Buildings Application No. 110324667, reads in pertinent part:

“Physical culture establishment (day spa) is not permitted as of right in C5-2 district and is contrary to ZR 32-10;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-2 zoning district, the establishment of a physical culture establishment (PCE) on the second floor of an existing 15-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 13, 2009 after due notice by publication in *The City Record*, and then to decision on January 27, 2009; and

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

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

WHEREAS, the subject site is located on the south side of East 56th Street, between Park Avenue and Lexington Avenue, in a C5-2 zoning district; and

WHEREAS, the site is occupied by a 15-story commercial building; and

WHEREAS, the PCE will occupy approximately 5,509 sq. ft. of floor area, comprising the entire second floor of the existing building; and

WHEREAS, the PCE will be operated as the “Susan Ciminelli Day Spa;” and

WHEREAS, the applicant represents that the services at the PCE will include facilities for the practice of massage within a full service day spa, as well as programs for physical improvement; and

WHEREAS, the proposed hours of operation are: Monday through Saturday, from 9:00 a.m. to 6:00 p.m., and Sunday, from 12:00 p.m. to 5:00 p.m.; and

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

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

WHEREAS, the PCE will not interfere with any

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pending public improvement project; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; 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. 098BSA036M, dated August 26, 2008; and

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

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

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; 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 C5-2 zoning district, the establishment of a physical culture establishment on the second floor of an existing 15-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received December 11, 2008"- two (2) sheets; and *on further condition*:

THAT the term of this grant shall expire on January 27, 2019;

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 all signage shall comply with C5-2 zoning regulations;

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;

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

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

Adopted by the Board of Standards and Appeals, January 27, 2009.

178-07-BZ

APPLICANT – Dominick Salvati and Son Architects, for Bronx Jewish Boys, owners.

SUBJECT – Application July 12, 2007 – Variance (§72-21) to permit the proposed seven-story residential building above the existing three-story community facility building. The proposal is contrary to residential floor area and FAR and lot coverage (§23-141(b)), number of dwelling units (§23-222), rear yard (§23-47 & §24-36), sky exposure plane and setback, (§23-631(d)), required residential and community facility parking (§25-23 & §25-31). R5 district. PREMISES AFFECTED – 2261-2289 Bragg Street, 220' north from intersection of Bragg Street and Avenue W, Block 7392, Lot 57, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Mark McCarthy.

ACTION OF THE BOARD – Laid over to April 7, 2009, at 1:30 P.M., for adjourned hearing.

203-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Gastar, Inc., owner.

SUBJECT – Application August 17, 2007 – Variance (§72-21) to allow a new thirteen (13) story mixed-use building containing twenty (20) dwelling units, ground floor retail and third and fourth floor community facility (medical) uses; contrary to bulk and parking regulations (§35-311 & §36-21). R6/C2-2 district.

PREMISES AFFECTED – 137-35 Elder Avenue (a/k/a 43-49 Main Street) located at the northwest corner of Main Street and Elder Avenue, Block 5140, Lot 40, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Richard Lobel and Robert Pauls.

ACTION OF THE BOARD – Laid over to March 17,

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

220-07-BZ

APPLICANT – Moshe M. Friedman, P.E., for Relly Bodansky, owner.

SUBJECT – Application September 25, 2007 – Variance (§72-21) to allow the erection of a new 4-story residential building containing 4 dwelling units on a site containing an existing legal, nonconforming 3-story multiple dwelling which is proposed to be razed; contrary to use regulations (§42-10). M1-1 district.

PREMISES AFFECTED – 847 Kent Avenue, east side of Kent Avenue, 300' north of intersection of Kent Avenue and Myrtle Avenue, Block 1898, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Moshe M. Friedman and Hershel Bodarsky.

For Opposition: Elba Cornier.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 3, 2009 at 1:30 P.M., for decision, hearing closed.

284-07-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for K.S. Realty, Inc., owner; AGT Crunch New York, LLC, lessee.

SUBJECT – Application December 19, 2007 – Special Permit (§73-36) to allow the legalization of a Physical Culture Establishment (Crunch Fitness) on portions of the cellar, and first floor, second floor, and the third floor of a mixed-use building. The proposal is contrary to § 32-10. C6-1 district.

PREMISES AFFECTED – 52-54 East 13th Street, south side of East 13th between Broadway and University Place, Block 564, Lot 11, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Ellen Hay.

ACTION OF THE BOARD – Laid over February 24, 2009, at 1:30 P.M., for postponed hearing.

40-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Laconia Land Corporation, owner.

SUBJECT – Application February 25, 2008 – Special Permit (§§11-411 & 11-413) to allow the re-instatement and extension the term, to amend the previous BSA approval of an Automotive Service Station (UG 16) to an Automotive Repair Facility (UG 16). The application seeks to subdivide the zoning lot and allow a portion to be developed as of right in a C1-2/R5 zoning district.

PREMISES AFFECTED – 3957 Laconia Avenue Northwest

corner of east 224th Street Block 4871, Lot 1, Borough of Bronx.

COMMUNITY BOARD #1BX

APPEARANCES –

For Applicant: Todd Dole.

ACTION OF THE BOARD – Laid over March 3, 2009, at 1:30 P.M., for adjourned hearing.

159-08-BZ

APPLICANT – Jay A. Segal, for Greenberg Traurig, LLF, for DJL Family Limited Partnership, owners.

SUBJECT – Application June 10, 2008 – Variance (§72-21) to allow a new seven (7) story residential building (UG 2) containing twelve (12) dwelling units and ground floor retail (UG 6); contrary to use regulations (§42-10 & §42-14 D(2)(b)). M1-5B district.

PREMISES AFFECTED – 68-70 Spring Street, south side of Spring Street between Crosby and Lafayette Streets, Block 482, Lot 19, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

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

161-08-BZ

APPLICANT – Eric Palatnik, P.C., for Oleg F. Kaplun, owner.

SUBJECT – Application June 10, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area, open space and lot coverage (§23-141) and less than the required rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 136 Dover Street, between Hampton Street and Oriental Boulevard, Block 8735, Lot 80, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

162-08-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 150 East 93rd Street Corporation, owner.

SUBJECT – Application June 12, 2008 – Special Permit (§73-621) to allow for the enlargement of an existing building contrary to floor area and lot coverage regulations §23-145 and §35-31; C1-8X District.

PREMISES AFFECTED – 150 East 93rd Street, southeast corner of East 93rd Street and Lexington Avenue, Block 1521, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Fredrick A. Becker.

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For Opposition: Lo Van der Valk, Susan Kathryn Hefti, Charles Fastenberg, Julie Herzig and other.

ACTION OF THE BOARD – Laid over to March 3, 2009, at 1:30 P.M., for continued hearing.

206-08-BZ

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

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Eric Palatnik, Rabbi Chait

For Opposition: Jeanette Baruch.

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

215-08-BZ

APPLICANT – Davidoff Malito & Hutcher, LLP by Howard S. Weiss, for SoBro Development Corp., owners.
SUBJECT – Application August 20, 2008 – Variance (§72-21) to allow a new ten (10) story mixed-use building containing ninety eight (98) dwelling units and ground floor retail use; contrary to use regulations (§32-00). C8-3 district.
PREMISES AFFECTED – 1778-1800 Southern Boulevard, intersection of East 174th Street, Boston Post Road and Southern Boulevard, Block 2984, Lots 1 & 7, Borough of Bronx.

COMMUNITY BOARD #3BX

APPEARANCES –

For Applicant: Howard Weiss and Victor Body-Lawson.

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

223-08-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Joseph Maza, owner.

SUBJECT – Application August 29, 2008 – Variance (§72-21) to permit a commercial development (local retail, use group 6) within an R3-2 (SRD) zoning district.

PREMISES AFFECTED – 4553 Arthur Kill Road, west side of Arthur Kill Road, 142' south of the intersection with Kreisler Street, Block 7596, Lot 250, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Todd Dale.

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

226-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Tiferes Shebitferes Corp., by David Smatena, owner.

SUBJECT – Application September 16, 2008 – Special Permit (§73-50) to legalize the vertical enlargement of an existing commercial building within the required 30 foot rear yard required along a residential district boundary line that is coincident with a rear lot line. C8-2 zoning district.

PREMISES AFFECTED – 172 Empire Boulevard, south side of Empire Boulevard between Bedford Avenue and Rogers Avenue, Block 1314, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Lyra 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 February 10, 2009 at 1:30 P.M., for decision, hearing closed.

227-08-BZ

APPLICANT – Slater & Beckerman, LLP, for Bronx Lebanon Hospital Center, owner.

SUBJECT – Application September 3, 2008 – Variance (§72-21) to allow a 39,922 square foot enlargement to an existing non-profit hospital (UG 4); contrary to bulk regulations (§24-11, §23-633, §122-30). R8 District / Special Grand Concourse Preservation District.

PREMISES AFFECTED – Grand Concourse, East 173rd Street, Selwyn Avenue, Mt. Eden Parkway, Block 2823, Lot 1, Borough of Bronx.

COMMUNITY BOARD #4BX

APPEARANCES –

For Applicant: Carole Slater, Robert Sanc Ho, Ben P. Lee and Neil Weisbard.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

230-08-BZ

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

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

PREMISES AFFECTED – 1019 East 23rd Street, East side

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of 23rd Street between Avenue J and Avenue K, Block 7605,
Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over March 17,
2009, at 1:30 P.M., for adjourned hearing.

234-08-BZ

APPLICANT – Eric Palatnik, P.C., for 1702 Avenue Z, Inc.,
owner.

SUBJECT – Application September 9, 2008 – Special
Permit (§73-36) to allow the proposed Physical Culture
Establishment at the cellar and a portion of the first and
second floors in a seven-story mixed-use building. The
proposal is contrary to ZR §32-10. C4-2 district.

PREMISES AFFECTED – 1702 Avenue Z, southeast of the
corner formed by Avenue Z and East 17th Street, Block
7462, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

250-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Sari
Dana and Edward Dana, owners.

SUBJECT – Application October 10, 2008 – Special Permit
(§73-622) for the enlargement of an existing single family
residence. This application seeks to vary floor area (§23-
141) and less than the required rear yard (§23-47) in an R2X
(OP) Special Ocean Parkway District.

PREMISES AFFECTED – 1925 East 5th Street, east side of
East 5th Street between Avenues R and S, Block 6681, Lot
490, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to March 3,
2009, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.