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AND APPEALS

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326-09-BZ

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327-09-BZ

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328-09-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

JANUARY 26, 2010, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, January 26, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

818-59-BZ

APPLICANT – Akerman Senterfitt for 139 East 33rd Street Corporation, owner; Central Parking System of NY, Incorporated, lessee.

SUBJECT – Application July 24, 2009 – Extension of Term (§11-411) to permit the use of the surplus parking spaces of an accessory garage to a multiple dwelling for transient parking which expired on July 6, 2001. C1-9 & C6-1 zoning district.

PREMISES AFFECTED – 139 East 33rd Street, north side of 33rd Street and north west corner of 220/226 Lexington Avenue, Block 889, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

582-83-BZ

APPLICANT – Carole S. Slater for Torri Associates c/o LaSeven, Incorporated, owner.

SUBJECT – Application December 23, 2009 – Extension of Term for a previously granted Variance (72-21) to permit the conversion of an existing six story building for commercial use with retail stores on the ground floor which expired on January 10, 2004; Amendment to permit (UG6) use in the cellar and to eliminate the Term; Waiver of the Rules. R8B zoning district.

PREMISES AFFECTED – 215 East 58th Street, North side of East 58th Street, between Second and Third Avenues. Block 1332, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #6M

375-02-BZ

APPLICANT – Moshe M. Friedman, for Congregation Tzolsa D'Shlomo, owner.

SUBJECT – Application June 4, 2009 – Application to request a reopening of BSA Cal. No. 375-02-BZ to allow an amendment to a previously-approved zoning variance and to extend the time to complete construction and obtain a Certificate of Occupancy. The proposed amendment would allow modification of the approved plans for a house of worship and accessory rectory.

PREMISES AFFECTED – 1559 59th Street, north side of 59th Street, 400' west from the intersection of 59th Street and 16th Avenue, Block 5502, Lot 54, Borough of Brooklyn.

COMMUNITY BOARD #12BK

58-07-BZ

APPLICANT – Eric Palatnik, P.C., for Vito Savino, owner. SUBJECT – Application October 27, 2009 – Application pursuant to §72-01 and §72-22 to amend the previously issued resolution to include two additional objections (proposed dwelling units less than the required size (ZR §23-23) and proposed side yard less than required side yard §23-461(a)). R3A zoning district.

PREMISES AFFECTED – 18-02 Clintonville, Block 4731, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEALS CALENDAR

300-08-A

APPLICANT – Blank Rome LLP by Marvin Mitzner, for Dutch Kills Partners, LLC, owner.

SUBJECT – Application December 9, 2008 – An appeal seeking a determination that the property owner has acquired a common law vested right to continue development under the prior M1-3 zoning district regulations. M1-2/R5B.

PREMISES AFFECTED – 39-35 27th Street, east side of 27th Street, 125' northeast of the intersection of 27th Street and 40th Avenue, Block 397, Lot 2, Borough of Queens.

COMMUNITY BOARD #1Q

57-09-A thru 158-09-A

APPLICANT – Eric Palatnik, P.C. for Maguire Avenue Realty Corporation, owner.

SUBJECT – Application April 15, 2009 – An appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior zoning district regulations .R3-2 (SSRD) zoning district.

PREMISES AFFECTED – Maguire Woods, Santa Monica Lane, Moreno Court, El Camino Loop, Malibu Court, Foothill Court and Moreno Court, Maguire Woods in the Woodrow section of Staten Island. Block 6979, Lots 64 thru 362, Borough of Staten Island.

COMMUNITY BOARD #3SI

280-09-A

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 330 West 86th Street, LLC, owner.

SUBJECT – Application January 26, 2010 – Appeal challenging Department of Building's authority under the City Charter to interpret or enforce provisions of Article 16 of the General Municipal Law as it applies to the construction of a proposed 16 story+ penthouse on this site. R10A Zoning district.

PREMISES AFFECTED – 330 West 86th Street, south side of West 86th street, 280' west of the intersection of Riverside Drive and West 86th Street, Block 1247, Lot 49, Borough of

CALENDAR

Manhattan.

COMMUNITY BOARD #7M

JANUARY 26, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, January 26, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

224-09-BZ

APPLICANT – Sheldon Lobel, P.C., for Springfield-Hempstead Realty, LLC, owner; Walgreens Company, lessee.

SUBJECT – Application July 8, 2009 – Special Permit (§73-52) to allow for accessory commercial parking to be located in the residential portion of a split zoning lot. C2-3/R3-2 and R3-2 zoning districts.

PREMISES AFFECTED – 218-51 aka 218-59 Hempstead Avenue, Northwest corner of intersection of Hempstead Avenue, Block 10766, Lot 38, 46, 48, 51, Borough of Queens.

COMMUNITY BOARD #13Q

235-09-BZ

APPLICANT – Eric Palatnik, P.C., for Calvary Baptist Church of Jamaica, owner.

SUBJECT – Application July 24, 2009 – Variance (§72-21) to permit the development of a five-story not-for-profit residence for the elderly (Calvary Baptist Church). Proposal is contrary to ZR §23-144 (floor area), number of dwelling units (§23-221), height (§23-631), side yards (§23-462), rear yard (§23-471), and parking (§25-23). R3-2 zoning district.

PREMISES AFFECTED – 162-25 112th Road, Guy Brewer Boulevard and 112th Road, Block 12183, Lot 35 (tent), Borough of Queens.

COMMUNITY BOARD #12Q

248-09-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt's Petroleum, Incorporated, owner.

SUBJECT – Application August 26, 2009 – Special Permit (§11-411 & §11-412) the re-instatement an automotive service station (UG16) which expired on July 24, 1991; Amendment to modify the layout of the site; and an Waiver of the Rules of the Rules of Practice and Procedure. R6 zoning district.

PREMISES AFFECTED – 3031 Bailey Avenue, northwest corner of Bailey Avenue and Albany Court, Block 3266, Lot 85, Borough of The Bronx.

COMMUNITY BOARD #8BX

281-09-BZ

APPLICANT – Marcie Kesner, Kramer Levin Naftalis & Frankel LLP, for Bayrock/Sapir Organization LLC, owner; WTS International, Incorporated, lessee.

SUBJECT – Application October 7, 2009 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (WTS International) on the fifth and sixth floors in an existing building. M1-6 zoning district.

PREMISES AFFECTED – 246 Spring Street, Spring Street, Sixth Avenue, Dominick Street, Varick Street. Block 491, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #2M

311-09-BZ

APPLICANT – Eric Palatnik, P.C., for Michael Matalon, owner.

SUBJECT – Application November 24, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to open space and floor area (§23-141(a)), side yard (§23-461(a)) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 1092 East 22nd Street, between Avenue J and K, Block 7603, Lot 54, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, DECEMBER 15, 2009
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

389-85-BZ

APPLICANT – Walter T. Gorman, P.E., P.C., for ExxonMobil Corporation, owner; Mobil On The Run, lessee.

SUBJECT – Application October 5, 2009 – Extension of Time to obtain a Certificate of Occupancy for a UG16 Automotive Service Station (*Mobil*) which expires on December 9, 2009. C2-3/R7-1 zoning district.

PREMISES AFFECTED – 2090 Bronxdale Avenue, bounded by Brady Avenue, White Plains Road and Bronx Park East, Block 4283, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #11BX

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 reopening and an extension of time to obtain a certificate of occupancy for an automobile service station (Use Group 16) with accessory uses; and

WHEREAS, a public hearing was held on this application on November 24, 2009, after due notice by publication in *The City Record*, and then to decision on December 15, 2009; and

WHEREAS, the site is located on the north side of Bronxdale Avenue, bounded by Brady Avenue, White Plains Road and Bronx Park East, within a C2-3 (R7-1) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 26, 1985 when, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-211 authorizing the premises to be occupied by an automotive service station with accessory uses for a term of fifteen years; and

WHEREAS, the grant was extended on October 26, 1999 for a term of 15 years from the expiration of the prior grant, to expire November 26, 2015; a condition of the grant was that a new certificate of occupancy be obtained by October 26, 2000; and

WHEREAS, on December 9, 2008, the Board granted an extension of time to obtain a certificate of occupancy for one year, to expire December 9, 2009, and granted an amendment to legalize: (i) the conversion of the service building to an accessory convenience store; (ii) the enlargement of the two curb cuts located on White Plains Road from 30 feet to 35 feet and the enlargement of the curb cut located on Bronx Park East from 26 feet to 31 feet; (iii) the relocation of parking spaces from the Bronx Park East property line to the west side of the service building; and (iv) the addition of a sign on both the east and west sides of the service building; and

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

WHEREAS, based upon its review of the record, the Board finds that the requested one-year extension of time to obtain a certificate of occupancy 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 November 26, 1985, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to December 15, 2010; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans associated with the prior approval; and *on further condition*:

THAT a certificate of occupancy shall be obtained by December 15, 2010;

THAT all signage shall comply with C2 zoning district regulations;

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

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

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. 210037244)

Adopted by the Board of Standards and Appeals December 15, 2009.

68-03-BZ

APPLICANT – Stuart A. Klein, Esq., for Torah M. Sinai, Incorporated, owner.

SUBJECT – Application October 20, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the conversion of an existing manufacturing building to a (UG3) day care center and (UG6) office use which expired on August 10, 2008 and a Waiver of the Rules. M1-2 zoning district.

PREMISES AFFECTED – 649 39th Street, northwest corner of the intersection of 39th street and 7th Avenue, Block 903,

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Lot 79, 80, 83, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Jay Goldstein.

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 complete construction of a previously granted variance to permit, within an M1-2 zoning district, the enlargement of an existing manufacturing building and the conversion of a portion of the building to a day care center (Use Group 3A), which expired on August 10, 2008; and

WHEREAS, a public hearing was held on this application on November 24, 2009 after due notice by publication in *The City Record*, and then to decision on December 15, 2009; and

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

WHEREAS, the subject site is located on the north side of 39th Street, between Fifth Avenue and Eighth Avenue, within an M1-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since August 10, 2004 when, under the subject calendar number, the Board granted: (1) a variance to permit the proposed enlargement of an existing building, and the conversion of a portion of the building for a day care center (Use Group 3A); and (2) a special permit pursuant to ZR § 73-44 to permit a reduction in the amount of parking required for the portion of the proposed building to be occupied with office use; and

WHEREAS, substantial construction was to be completed by August 10, 2008, in accordance with ZR § 72-23; and

WHEREAS, the applicant states that the conversion of the first and a portion of the second floor has been completed and that approximately 25,000 sq. ft. of the approved 34,000 sq. ft. of community facility space is being utilized, but that due to funding delays additional time is necessary to complete the project; thus, the applicant now requests an extension of time to complete construction; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction is 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 August 10, 2004, so that as amended this portion of the resolution shall read: “to grant an extension of the time to complete construction for a term of

two years, to expire on December 15, 2011; *on condition:*

THAT substantial construction shall be completed by December 15, 2011;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 301031194)

Adopted by the Board of Standards and Appeals, December 15, 2009.

326-04-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Sephardic Center of Mill Basin, owner.

SUBJECT – Application October 29, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a new Synagogue (*Sephardic Center of Mill Basin*) which expired on October 18, 2009. R-2 zoning district.

PREMISES AFFECTED – 6208-6216 Strickland Avenue, northeast corner of the intersection of Strickland Avenue and Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

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 time to complete construction of a previously granted variance to permit, within an R2 zoning district, the construction of a synagogue, which expired on October 18, 2009; and

WHEREAS, a public hearing was held on this application on November 24, 2009 after due notice by publication in *The City Record*, and then to decision on December 15, 2009; and

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

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the northeast corner of the intersection of Strickland Avenue and Mill Avenue, within an R2 zoning district; and

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WHEREAS, the Board has exercised jurisdiction over the subject site since October 18, 2005 when, under the subject calendar number, the Board granted the proposed construction of a two-story plus synagogue; and

WHEREAS, substantial construction was to be completed by October 18, 2009, in accordance with ZR § 72-23; and

WHEREAS, a letter of substantial compliance was issued by the Board for the subject site on May 24, 2007, permitting several minor amendments to the approved plans and correcting an error in the floor area calculations; and

WHEREAS, the applicant states that the modified plans have been approved by the Department of Buildings and the congregation is now prepared to proceed with the development, but that additional time is needed to complete the project; thus, the applicant now requests an extension of time to complete construction; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction 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 October 18, 2005, so that as amended this portion of the resolution shall read: "to grant an extension of the time to complete construction for a term of four years, to expire on December 15, 2013; *on condition*:

THAT substantial construction shall be completed by December 15, 2013;

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. 301780874)

Adopted by the Board of Standards and Appeals, December 15, 2009.

615-57-BZ

APPLICANT – Sheldon Lobel, P.C., for Cumberland Farms, Inc., owner.

SUBJECT – Application November 17, 2009 – Extension of Time to obtain a Certificate of Occupancy and waiver of the rules for a Gasoline Service Station (Exxon) which expired on January 22, 2009. C1-3/R5B zoning district.

PREMISES AFFECTED – 154-11 Horace Harding Expressway, north side of Horace Harding Expressway between Kissena Boulevard and 154th Place, Block 6731, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Joshua 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 January 12, 2010, at 10 A.M., for decision, hearing closed.

140-92-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Evangel Church, owner.

SUBJECT – Application December 19, 2008 – Amendment of variance (§72-21) which allowed an enlargement of an existing school (UG 3). The amendment would further enlarge the school, contrary to height and setback (§43-43). M1-2/R5D & M1-2/R5B (Special Long Island City Mixed Use District).

PREMISES AFFECTED – 39-21 Crescent Street, southerly side of Crescent Street between 39th Avenue and 40th Avenue, Block 396, Lot 10 & 36, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to January 26, 2010, at 10 A.M., for decision, hearing closed.

195-99-BZ

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

SUBJECT – Application September 18, 2009 – Extension of Term (§11-411) for the continued use of a Gasoline Service Station (*Shell*) which expires on November 10, 2009. R-6 zoning district.

PREMISES AFFECTED – 112 Atlantic Avenue, south east corner of Atlantic Avenue and Henry Street, Block 285, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Todd Dale.

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 January 12, 2010, at 10 A.M., for decision, hearing closed.

MINUTES

75-00-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Matthew Realty LLC, c/o Nathan Katz Realty, LLC, owner; TVR Communications, lessee.

SUBJECT – Application October 26, 2009 – Extension of Term of a previously granted Variance (§72-21) to permit a real estate management offices (UG6) in a residential district which expires on July 25, 2010. This application also proposes to change within the same UG6 office use. R-5 zoning district.

PREMISES AFFECTED – 60-69 Woodhaven Boulevard, east side of Woodhaven Boulevard, north of Eliot Avenue, Block 3089, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to January 26, 2010, at 10 A.M., for continued hearing.

156-03-BZ

APPLICANT – Steven M. Sinacori, Esq., of Akerman Senterfitt, for RKO Plaza LLC & Farrington Avenue Developers, LLC, owner.

SUBJECT – Application November 30, 2009 – Extension of Time to Complete Construction of a previously granted Variance (72-21) for the construction of a seventeen story mixed-use commercial/community facility/residential condominium building which expired on December 13, 2009. C2-2/R6 zoning district.

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of Northern Boulevard, between Prince street and Farrington street, Block 4958, Lot 38 & 48, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Calvin Wong

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to January 12, 2010, at 10 A.M., for decision, hearing closed.

208-03-BZ

APPLICANT – Stuart A. Klein, Esq., for Shell Road, LLC, owner; Orion Caterers, Incorporated, lessee.

SUBJECT – Application November 9, 2009 – Extension of Term of a previously granted Variance (§72-21) for a UG9 catering hall which expired on October 19, 2009. R4/C1-2/M1-1 OP zoning district.

PREMISES AFFECTED – 255 Shell Road, east side of Shell Road, between Avenue X and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Jay Goldstein.

ACTION OF THE BOARD – Laid over to January 26, 2010, at 10 A.M., for continued hearing.

291-03-BZ

APPLICANT – Stuart A. Klein, Esq., for 6202-6217 Realty LLC, owner.

SUBJECT – Application June 5, 2009 – Application to extend the term and amend the prior granted variance to add an additional floor and increase the number of dwelling units, FAR, and the number of parking spaces. M1-1/R5B zoning districts.

PREMISES AFFECTED – 1380 62nd Street, corner of 62nd Street and 14th Avenue, Block 5733, Lots 35, 36, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES – None.

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 January 26, 2010, at 10 A.M., for decision, hearing closed.

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.

ACTION OF THE BOARD – Laid over to January 26, 2010, at 10 A.M., for continued hearing.

196-08-BZ

APPLICANT – Gage Parking Consultants, for 53-10 Associates, owner.

SUBJECT – Application October 13, 2009 – Reopening for an amendment of the existing public parking garage. C6-2 (Special Clinton District) zoning district.

PREMISES AFFECTED – 792 Tenth Avenue / 455 West 53rd Street, north east corner of Tenth Avenue and West 53rd Street, Block 1063, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Jeremiah Candeau, Gary Spindler and John Meyer.

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ACTION OF THE BOARD – Laid over to January 26, 2010, at 10 A.M., for continued hearing.

APPEALS CALENDAR

83-08-A

APPLICANT – NYC Department of Buildings, for H. Patel, P.M. – Purvi Enterprises, LLC, owner.

SUBJECT – Application April 9, 2008 – An appeal seeking to revoke Certificate of Occupancy No. 301279319 issued on January 17, 2007 as it was issued in error due to failure to comply with ZR §62-711 requiring waterfront certification and the failure to comply with ZR §12-10(d) in the formation of the zoning lot R5 SP Sheepshead Bay District.

PREMISES AFFECTED – 3218 Emmons Avenue, Emmons Avenue between Bringham Street, and Bragg Street, Block 8815, Lot 590, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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, December 15, 2009.

170-09-A

APPLICANT – NYC Department of Buildings

OWNER – Kenbridge Realty Corporation

SUBJECT – Application April 3, 2009 – An appeal filed by the Department of Buildings seeking to amend Certificate of Occupancy to remove the reference to "Adult" Establishment "use on the second floor. M1-5/R-9 Special Mixed Use District.

PREMISES AFFECTED – 24-03 Queens Plaza North, northeast corner of Queens Plaza North and 24th Street, Block 414, Lot 5, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: John R. Egnatos-Beene.

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, the Department of Buildings (“DOB”) seeks to modify Certificate of Occupancy Number 400942655 (the “Current CO”), issued to the subject premises on May 2, 2002, on the basis that it improperly reflects a non-conforming adult establishment on the first floor of the existing building

located at the premises; 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 November 24, 2009, and then to decision on December 15, 2009; and

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

WHEREAS, the subject premises is located on the northeast corner of Queens Plaza North and 24th Street, in an M1-5/R9 zoning district within the Special Long Island City Mixed-Use District; and

WHEREAS, the Current CO reflects the following uses: (i) an employees lounge, office storage, kitchen and utility rooms in the cellar; and (ii) Use Group 6 stores and Use Group 12 adult eating and drinking establishment on the first floor; and

WHEREAS, DOB asserts that the adult establishment use on the first floor has been prohibited since July 26, 2001, when the premises was rezoned to an M1-5/R9 zoning district within the Special Long Island City Mixed-Use District; and

WHEREAS, DOB states that, pursuant to ZR § 42-01(a), adult establishments are prohibited in manufacturing districts in which residential use is permitted as-of-right; and

WHEREAS, DOB further states that, pursuant to ZR § 123-20, Special Mixed-Use Districts, such as the subject district, permit residential use as-of-right; and

WHEREAS, DOB states that, pursuant to ZR § 52-77, a non-conforming adult establishment must terminate within one year from the date it becomes non-conforming; thus, because the rezoning became effective on July 26, 2001, the adult establishment use at the subject building should have terminated on or before July 26, 2002; and

WHEREAS, DOB notes that its issuance of the Current CO was erroneous, because it was issued on May 2, 2002, which is after the date of the rezoning; and

WHEREAS, representatives of TC Entertainment Inc., the lessee of the first floor of the subject building (hereinafter, the “Opposition”), testified at hearing and made submissions to the record in opposition to the application; and

WHEREAS, the Opposition raised the following primary arguments: (1) the Board should not act on the subject application due to pending litigation; (2) the adult use regulations were not intended to apply to Special Mixed Use Districts and prohibiting adult establishments in a district specifically intended for mixed uses is invalid as a matter of constitutional law; and (3) the Board should re-start the one-year amortization period of ZR § 52-77; and

WHEREAS, as to the pending litigation, the Opposition asserts that the Board should not act on the subject application in the absence of a decision in Ten’s Cabaret, Inc. v. City of New York (Index No. 121197/02), which concerns the regulation of adult uses in New York City; and

WHEREAS, the Board disagrees with the Opposition, noting that the instant case can be distinguished from the issues under review in Ten’s Cabaret in that DOB’s request to modify the Current CO is based on the fact that an adult establishment

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is not permitted within the subject zoning district, and thus such use cannot be reflected on any certificate of occupancy within the subject district; and

WHEREAS, additionally, the Board notes that the outcome of Ten's Cabaret and the definition of what an adult establishment is does not have any bearing on whether an adult establishment is a conforming use in an M1-5/R9 zoning district; and

WHEREAS, as to the Special Mixed Use Districts, the Opposition asserts that the effect of adult uses in such districts was never analyzed because Special Mixed Use Districts had not yet been created when the adult use regulations prohibiting the operation of adult establishments near residential and specified community facility uses were enacted; and

WHEREAS, the Opposition further asserts that Special Mixed Use District regulations substantially alter the relationship between mixed uses, and the application of the adult use regulations to such districts is not supported; and

WHEREAS, the Board notes that ZR § 42-01(a) specifically prohibits adult establishments in a manufacturing zoning district where residential use is permitted as-of-right, such as in the subject M1-5/R9 zoning district; and

WHEREAS, as to an amortization period, the Opposition requests that the Board re-start the one-year period set forth in ZR § 52-77 based on the equitable defense of laches, the requirement for procedural due process, and the Board's power pursuant to City Charter § 666(7); and

WHEREAS, specifically, the Opposition alleges that DOB failed to pursue the modification to the Current CO in a timely fashion, and because DOB issued the Current CO in 2002, the owner lacked notice of the alleged non-conformity under ZR § 42-01; and

WHEREAS, the Opposition argues that restarting the amortization period is similarly demanded by the requirements of procedural due process, because the owner was not afforded notice that the use was non-conforming after the zoning change; and

WHEREAS, the Board notes that it is an administrative body rather than a court, so it is not appropriate for it to entertain equitable defenses; and

WHEREAS, the Board further notes that the owner had constructive notice of the subject non-conformity by virtue of the rezoning of the site to a zoning district in which adult establishments are prohibited; and

WHEREAS, additionally, the Board notes that the one-year amortization period began on July 26, 2001, more than eight years ago, so any argument for equitable relief, even if the Board were able to consider it, is unavailing; and

WHEREAS, DOB notified the Opposition to the non-conformity with zoning by letter dated October 14, 2008, more than one year ago; and

WHEREAS, based on the above, the Board finds the Opposition's invocation of the Board's powers pursuant to City Charter § 666(7) misplaced; and

WHEREAS, accordingly, the Board finds that the adult establishment use should have been terminated on or before July 26, 2002, pursuant to ZR § 52-77; and

WHEREAS, therefore, the Board finds that the reference

on the Current CO to adult establishment use on the first floor is contrary to the provisions of the Zoning Resolution.

Therefore it is Resolved that the application brought by the Deputy Commissioner of the Department of Buildings on May 12, 2009, seeking to modify Certificate of Occupancy No. 400942655 by removing any reference to "adult establishment" on the first floor, is hereby granted.

Adopted by the Board of Standards and Appeals, December 15, 2009.

244-09-BZY

APPLICANT – Sheldon Lobel, P.C., for Polven, LLC, owner.

SUBJECT – Application August 21, 2009 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior R6/C1-3 zoning district. R6B/C2-4 Zoning District.

PREMISES AFFECTED – 175 Vanderbilt Avenue, east side of Vanderbilt Avenue and Myrtle Avenue, Block 1901, Lots 19, 20, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Jordan Most.

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 § 11-332, 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 November 24, 2009, after due notice by publication in *The City Record*, and then to decision on December 15, 2009; and

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

WHEREAS, the subject site is located on the east side of Vanderbilt Avenue, between Myrtle Avenue and Willoughby Avenue, in a C2-4 (R6B) zoning district; and

WHEREAS, the subject site has 40'-3" of frontage along Vanderbilt Avenue and a total lot area of 5,832 sq. ft.; and

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

WHEREAS, the Building is proposed to have a total floor area of 17,404 sq. ft.; and

WHEREAS, the development complies with the former C1-3 (R6) zoning district parameters; and

WHEREAS, however, on July 25, 2007 (hereinafter, the "Enactment Date"), the City Council voted to adopt the Fort Greene/Clinton Hill Rezoning, which rezoned the site from C1-3 (R6) to C2-4 (R6B); and

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WHEREAS, on November 26, 2006, Alteration Permit No. 302251783-01-EW-OT (hereinafter, the "Foundation Permit") was issued by the Department of Buildings ("DOB") permitting foundation work in connection with New Building Application No. 302094418; on April 3, 2007, New Building Permit No. 302094418-01-NB (hereinafter, the "New Building Permit") was issued by 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 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 3, 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 July 25, 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, fire stairs, balconies, decking, elevator shaft, dense glass installation, and fire proofing; 90 percent of the stucco and cinder block work; 85 percent of the roof and water proofing; 80 percent of framing; 75 percent of electrical wiring, plumbing roughing, and electrical roughing; 70 percent of elevator work and heating and cooling work; 65 percent of sprinkler work; 50 percent of façade work; and 30 percent of sheetrock taping and prime 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 Foundation Permit; an affidavit from the general contractor enumerating the completed work; copies of lien waivers evidencing payments made by the applicant; an affidavit from the general contractor confirming that the payments indicated were received; and photographs of the

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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 July 25, 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 paid for the development are \$1,594,800, or approximately 48 percent of the \$3,308,000 cost to complete; and

WHEREAS, as noted, the applicant has submitted copies of lien waivers and an affidavit from the general contractor confirming that the payments indicated were received; 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 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. 302094418-01-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 December 15, 2011.

Adopted by the Board of Standards and Appeals, December 15, 2009.

291-09-A

APPLICANT – Gary D Lenhart, for The Breezy Point Cooperative, Inc., owner; Kathleen & Thomas Owens, lessees.

SUBJECT – Application October 13, 2009 – Reconstruction and enlargement of an existing single family home not fronting on a mapped street contrary to General City law Section 36 and the proposed upgrade of the existing legal nonconforming private disposal system located partially in the bed of the service road is contrary to Department of Buildings Policy. R4 zoning district.

PREMISES AFFECTED – 33 Queens Walk, east side of Queens Walk, 115' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

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:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated October 6, 2009, acting on Department of Buildings Application No. 420014692, reads in pertinent part:

“A1– The street giving access to the existing building to be reconstructed and enlarged is not duly placed on the official map of the City of New York, therefore:

- A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law
- B) The existing dwelling to be reconstructed and enlarged does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code.

A2 – The proposed upgraded private disposal system is partially in the bed of the service road contrary to Building Department policy;” and

WHEREAS, a public hearing was held on this application on December 15, 2009, after due notice by publication in the *City Record*, and then to closure and decision on the same date; and

WHEREAS, by letter dated November 13, 2009, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated October 6, 2009, acting on Department of Buildings Application No. 420014692 is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received October 13, 2009”–one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT DOB shall review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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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, December 15, 2009

side of East 6th Street, between Avenue A and B, Block 401, Lots 17 and 18, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Marvin Mitzner.

For Opposition: Lisa Kaydan of Council Member Rosie Mendez' Office and Harvey Epstein.

ACTION OF THE BOARD – Laid over to February 9, 2009, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

205-05-A

APPLICANT – Gary D Lenhart, for The Breezy Point Cooperative, Inc., owner; Sheila Cardinale, lessee.

SUBJECT – Application September 1, 2009 – Amendment of to a previously granted General City Law Section 35 waiver to permit the construction of a single family home within the bed of a mapped street. R4 zoning district.

PREMISES AFFECTED – 47 Graham Place, north side of Graham Place, approximately 60' west of mapped Beach 204th Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

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 January 12, 2010, at 10 A.M., for decision, hearing closed.

Adjourned: P.M.

313-08-A

APPLICANT – Howard Goldman , LLC & Berger & Kramer , LLP for Chuck Close, for Proprietary Lessee of Studio and Basement Cooperative at 20 Bond Street , lessee.

SUBJECT – Application December 22, 2008 – Appeal to Department of Building's refusal to revoke permits and approvals for a six-story commercial building. M1-5B zoning district.

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

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to March 9, 2010, at 10 A.M., for an continued hearing.

217-09-A

APPLICANT – Marvin B. Mitzner, Esq., for 514-516 East 6th Street, owner.

SUBJECT – Application July 7, 2009 – An appeal seeking to vary the applicable provisions under the Multiple Dwelling Law as it applies to the enlargement of non-fireproof tenement buildings. R7-2 zoning district.

PREMISES AFFECTED – 514-516 East 6th Street, south

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**REGULAR MEETING
TUESDAY AFTERNOON, DECEMBER 15, 2009
1:30 P.M.**

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

ZONING CALENDAR

299-08-BZ

CEQR #09-BSA-049X

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

SUBJECT – Application December 4, 2008 – Variance (§72-21) to allow for a nine-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

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 Bronx Deputy Borough Commissioner, dated November 7, 2008, acting on Department of Buildings Application No. 210040374, reads in pertinent part:

- “1. Proposed community facility building (Use Group 3) located on a zoning lot partially in an M1-4 zoning district is contrary to ZR Section 42-00.
2. Proposed FAR exceeds permitted FAR and is contrary to ZR Section 24-111.
3. Proposed floor area exceeds permitted floor area and is contrary to ZR Section 24-111;” and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within a C1-4 (R6) zoning district, partially within a C2-4 (R6) zoning district, and partially within an M1-4 zoning district, the construction of a nine-story, 104-unit community facility building with sleeping accommodations (Use Group 3), contrary to ZR §§ 42-00 and 24-111; and

WHEREAS, a public hearing was held on this application on November 24, 2009, after due notice by publication in the *City Record*, and then to decision on

December 15, 2009; and

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

WHEREAS, this application is brought on behalf of The Lantern Group, Inc. (“the Lantern Group”), a not-for-profit entity; and

WHEREAS, Community Board 3, Bronx, recommends approval of the proposed application; and

WHEREAS, at hearing, certain members of the community had questions about the use and operation of the proposed building; and

WHEREAS, in response, the applicant described the proposal to the community members; and

WHEREAS, the site is located on the west side of Third Avenue, between Claremont Parkway and East 172nd Street, partially within a C1-4 (R6) zoning district, partially within a C2-4 (R6) zoning district, and partially within an M1-4 zoning district; and

WHEREAS, the subject site has approximately 153’-4” of frontage on Third Avenue, with an irregular depth and a total lot area of 14,749 sq. ft.; and

WHEREAS, the applicant notes that the site is a single zoning lot consisting of four separate tax lots; tax lots 39, 42, 43 and 44; and

WHEREAS, the zoning lot is divided by a zoning district boundary line, such that a 2,683 sq. ft. portion of the site, located at the northwestern corner of the zoning lot, is within an M1-4 zoning district; and

WHEREAS, the remainder of the site is split between a C1-4 (R6) zoning district to the south and a C2-4 (R6) zoning district to the northeast; and

WHEREAS, the site is currently occupied by a parking lot; and

WHEREAS, the applicant originally proposed a ten-story, 111-unit building with a floor area of 87,010 sq. ft. (5.8 FAR) and a building height of 104 feet; and

WHEREAS, the applicant now proposes to construct a nine-story, 104-unit building to be occupied by a community facility use with sleeping accommodations (Use Group 3), which is not permitted as-of-right in the M1-4 zoning district; additionally the proposed floor area of 73,800 sq. ft. (5.3 FAR); exceeds the maximum floor area of 29,320 sq. ft. (2.43 FAR) permitted for a community facility use in the C1-4 (R6) and C2-4 (R6) zoning districts; and

WHEREAS, the applicant notes that although no portion of the proposed building will be located within the M1-4 zoning district, the garden located in the proposed rear yard is an accessory use to the proposed community facility building and is located within the M1-4 zoning district; thus, a waiver for ZR § 42-00 is required; 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 subsurface soil conditions; (2) the site’s high water table; and (3) the site’s division by a zoning district boundary; and

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WHEREAS, as to the subsurface soil conditions, the applicant states that the site is subject to an uneven distribution of subsurface rock formation; and

WHEREAS, specifically, the applicant submitted a geotechnical report reflecting that the site is burdened by bedrock located between eight and 11 feet below grade on the western portion of the site and between 90 and 115 feet below grade on the eastern portion of the site; and

WHEREAS, the applicant states that as a result of this unique subsurface condition, rock removal will be required on the western portion of the site to accommodate the new building cellar and foundations, and long piles will have to be driven to a depth of between 90 and 115 feet in order to reach the bedrock on the eastern portion of the site; and

WHEREAS, as to the high water table, the applicant's geotechnical report reflected that ground water was encountered at a depth of eight feet below grade; and

WHEREAS, the applicant states that the foundations of the proposed building will be located three to five feet below the level of the ground water; and

WHEREAS, the applicant further states that, due to the site's high water table, a thick concrete slab will have to be installed under the entire building to provide weight to counteract the uplift from the water; and

WHEREAS, the applicant further states that dewatering will be necessary during the construction of the foundations to lower the water levels and provide a dry working area, and an extensive waterproofing system will be required under the entire building and vertically on the foundation walls; and

WHEREAS, the applicant represents that the subsurface soil conditions, combined with the site's high water table, greatly increase construction costs and contribute to unnecessary hardship and practical difficulties in utilization of the site; and

WHEREAS, the applicant submitted a letter from its architect stating that, due to the subsurface conditions, there is no way to construct an as-of-right building on this site that would be large enough to justify the cost of the necessary foundation system; and

WHEREAS, the applicant represents that the subject site is also unique because it is the only site in the surrounding area divided between three zoning districts: a C1-4 (R6) zoning district to the south; a C2-4 (R6) zoning district to the northeast; and an M1-4 zoning district to the northwest; and

WHEREAS, the applicant states that, while a community facility use is permitted as-of-right in the C1-4 (R6) and C2-4 (R6) zoning districts, such use is prohibited in an M1-4 zoning district; and

WHEREAS, the applicant represents that the only part of the subject site within an M1-4 zoning district consists of an irregularly-shaped 2,683 sq. ft. portion with no frontage on any of the surrounding roads; and

WHEREAS, the applicant represents that this condition restricts the viability of a conforming use on the M1-4 portion of the site; and

WHEREAS, the applicant notes that, for zoning lots divided by a district boundary, ZR § 77-11 permits the use regulations applicable to the district in which more than 50

percent of the lot area is located to apply to the entire lot when the greatest distance from the mapped district boundary to the boundary of the lot line in which less than 50 percent is located does not exceed 25 feet; and

WHEREAS, the applicant states that the distance from the M1-4 district boundary line to the lot line of the portion of the subject site located within the M1-4 zoning district is greater than 25 feet; thus ZR § 77-11 is not applicable; and

WHEREAS, the applicant concludes that the unique positioning of the site within a split zoning district further adds to the hardship encountered at the site; and

WHEREAS, additionally, the applicant states that the proposed floor area and use waivers are necessary to construct a facility that meets the Lantern Group's programmatic needs of providing affordable and supportive housing for low-income families and individuals, and providing on-site social service programs to the residents; and

WHEREAS, the applicant states that the proposed development will allow the Lantern Group to increase the number of low-income and special needs families and individuals that can be served in the greater Bronx area and provide residents with a modern, functional facility; and

WHEREAS, the applicant represents that it will receive funding from the New State Homeless Housing Assistance Program ("HHAP") and the New York State Housing Finance Agency ("HFA") in anticipation of the development of the facility; and

WHEREAS, the applicant represents that the proposed facility, including the number and kind of units, is based on models for such housing established by the New York City Housing Development Corporation ("HDC") and the New York City Department of Housing Preservation and Development ("HPD"), and followed by the Lantern Group at other locations; and

WHEREAS, by letter dated August 25, 2009, HHAP stated that the proposed development could be awarded funding to cover the costs of establishing a homeless housing program, including acquisition, construction, professional fees, site testing, and start up; and

WHEREAS, by letter dated October 29, 2009, HFA stated that the proposed development is eligible for tax exempt bond and four percent "as of right" tax credit financing; and

WHEREAS, the applicant represents that if the requested variance is not granted, the financial assistance from HHAP and HFA is unlikely to be available, thereby preventing the construction of the proposed building; and

WHEREAS, by letter dated September 3, 2009, HPD stated that a small portion of the subject site (part of tax lot 42) is located within the Bathgate Urban Renewal Area ("URA"), and that HPD intends to file an application with the Department of City Planning ("DCP") to have the portion removed from the URA; and

WHEREAS, the applicant further represents that HHAP program requirements for the subject site mandate that: (1) 30 percent of all apartments are reserved for families referred by the New York City Department of

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Homeless Services (“DHS”) shelter system or a related homelessness prevention agency; (2) the Lantern Group maintains supportive programs at the site for individualized services, which include case management, counseling, benefits counseling and services, multi-disciplinary counseling, and child and youth services; and (3) the applicant employ an experienced professional responsible for property management and ensuring efficient delivery of programmatic services to tenants; and

WHEREAS, the applicant notes that the proposed program satisfies all of the above-mentioned HHAP program requirements; and

WHEREAS, specifically, the applicant states that 41 of the proposed 104 units will be reserved for homeless veterans referred by DHS, and on-site social service programs will be provided by the Community Lantern Corporation, a social service affiliate of the Lantern Group, with a professional staff of social workers and counselors to provide counseling, case management, and employment and educational assistance for all tenants; and

WHEREAS, the applicant notes that the social services facility will occupy the cellar and a portion of the first floor of the proposed building; and

WHEREAS, the applicant states that the Lantern Group intends to utilize the operating income generated from the rent roll to cover the cost of the planned social services; and

WHEREAS, the applicant further states that, therefore, the proposed 104 units are necessary to sustain a sufficient amount of operating income to provide for these services; and

WHEREAS, the applicant states that an as-of-right building would have a floor area of only 29,320 sq. ft. (2.43 FAR), which would not be able to accommodate the applicant’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 the Lantern Group, 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 the Lantern Group 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 represents that the land uses surrounding the site are characterized by a mix of residential, commercial, and community facility uses; and

WHEREAS, the applicant submitted a 400-ft. radius diagram reflecting that there are a number of community facility uses located in the surrounding area, including three schools and a church building; and

WHEREAS, the applicant represents that the area is also characterized by New York City public housing developments, including a 16-story building and a 21-story building within

four blocks of the subject site; and

WHEREAS, as to bulk, the applicant submitted a floor area chart reflecting that there are 13 buildings in the surrounding area that exceed the allowable FAR, including a building located two blocks away from the subject site, on the corner of Fulton Avenue and 171st Street, with an FAR of 6.62; and

WHEREAS, the applicant also submitted a building height chart and a corresponding map, reflecting that, within four blocks of the subject site, there are seven buildings with frontage along Third Avenue that are taller than the proposed building; and

WHEREAS, the Board notes that an FAR of 4.8 would be permitted in the subject zoning district for a community facility without sleeping accommodations; and

WHEREAS, the applicant notes that, other than floor area, all bulk parameters comply with zoning district regulations; and

WHEREAS, the applicant represents that the proposed building would be permitted as-of-right in the R8A zoning district located one block north of the site; 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, but is a result of the unique site conditions and the Lantern Group’s programmatic needs; and

WHEREAS, as noted above, the applicant originally proposed a ten-story, 111-unit building with a floor area of 87,010 sq. ft. and a total height of 104 feet; and

WHEREAS, the Board finds that the revised proposal is the minimum necessary to afford the Lantern Group 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 617.2; 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. 09BSA049X dated December 11, 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 New York City Department of Environmental Protection’s (DEP) Bureau of Environmental Planning and Assessment has reviewed the project for potential hazardous materials impacts; and

WHEREAS, DEP approved the Remedial Action Plan

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(RAP) and Construction Health and Safety Plan (CHASP) on December 11, 2009; and

WHEREAS, DEP has concluded that the proposed project will not result in a significant adverse hazardous materials impact provided that a Remedial Closure Report certified by a professional engineer is submitted to DEP for approval; and

WHEREAS, the applicant proposes 35 dBA of window-wall noise attenuation with an alternate means of ventilation on all facades of the subject building in order to achieve an interior noise level of 45 dBA in each unit; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §72-21 and grants a variance to permit the construction of a nine-story, 104-unit community facility building with sleeping accommodations (Use Group 3), contrary to ZR §§42-00 and 24-111; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 16, 2009"—six (6) sheets; and *on further condition*;

THAT the following shall be the bulk parameters of the building: a maximum floor area of 78,300 sq. ft. (5.3 FAR); a total height of 93 feet; and a rear yard with a depth of 22'-6", as reflected on the BSA-approved plans;

THAT any change in ownership, operator, or control of the site from that proposed herein shall require the prior approval of the Board;

THAT 35 dBA of window-wall noise attenuation (with an alternate means of ventilation for each dwelling unit) shall be provided on all facades of the subject building;

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 or a Notice of No Objection;

THAT a Uniform Land Use Review Procedure application shall be filed with DCP to remove the relevant portion of the site from the URA, and its removal shall be secured prior to the issuance of a building permit;

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

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, December 15, 2009.

250-09-BZ

CEQR #09-BSA-019M

APPLICANT – Kramer Levin Naftalis & Frankel, LLP., for 532 Madison Syndicate, owner; Madison/Fifth Associates LLC c/o Stahl Real Estate, lessee.

SUBJECT – Application August 28, 2009 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*Ultimate Training Center*) on the sixth and seventh floors in an existing seven-story commercial building. C5-3 (MiD) zoning district.

PREMISES AFFECTED – 532 Madison Avenue, East 54th Street, Fifth Avenue; East 55th Street, Block 1290, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Superintendent, dated November 9, 2009, acting on Department of Buildings Application No. 120028228, reads in pertinent part:

"Proposed 'physical cultural establishment' is not permitted as-of-right in ZD C5-3. Reference to applying for a BSA special permit pursuant to ZR section 73-36;" and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site in a C5-3 zoning district within the Special Midtown District, a physical culture establishment (PCE) on the sixth and seventh floors of a seven-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 24, 2009, after due notice by publication in the *City Record*, and then to decision on December 15, 2009; and

WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the northwest corner of the intersection of Madison Avenue and East 54th Street, in a C5-3 zoning district within the Special Midtown District; and

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

WHEREAS, the PCE occupies a total floor area of

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approximately 3,558 sq. ft. on the sixth and seventh floors; and
WHEREAS, the PCE is operated as Ultimate Training Center; and

WHEREAS, the proposed hours of operation are: 6:30 a.m. to 11:00 p.m., daily; 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 applicant requests that the term of the special permit expire on April 30, 2019, in order to coincide with the term of the applicant's ground lease; 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. 10BSA139M, dated August 11, 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 in a C5-3 zoning district within the Special Midtown District, the legalization of a PCE on the sixth and seventh floors of an existing seven-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received November 10, 2009"-three (3) sheets and "Received December 2, 2009"-one (1) sheet and *on further condition*:

THAT the term of this grant shall expire on April 30, 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 signage shall comply with C5 district 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; 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, December 15, 2009.

195-07-BZ

APPLICANT – Greenberg Traurig by Deirdre A. Carson, for Bond Street Partners LLC (as to lot 64) c/o Convermat, owner.

SUBJECT – Application August 9, 2007 – Variance (§72-21) to allow hotel and retail uses below the floor level of the second story, contrary to use regulations (§42-14(d)(2)). M1-5B zoning district.

PREMISES AFFECTED – 8-12 Bond Street, Northwest corner of Bond and Lafayette Streets, Block 530, Lot 62 & 64, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to January 12, 2010, at 1:30 P.M., for deferred decision.

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97-08-BZ

APPLICANT – Eric Palatnik, P.C., for Chesky Berkowitz, owner; Central UTA, lessee.

SUBJECT – Application April 18, 2008 – Special Permit (§73-19) to allow the legalization of an existing school (*Central UTA*) (UG 3). M1-1 district.

PREMISES AFFECTED – 84 Sanford Street, between Park Avenue and Myrtle Avenue, Block 1736, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to January 26, 2010, at 1:30 P.M., for adjourned hearing.

197-08-BZ

APPLICANT – Stuart A. Klein, for Carroll Gardens Realty, LLC, owner.

SUBJECT – Application July 23, 2008 – Variance (§72-21) to permit a four-story and penthouse residential building, contrary to §23-141 (FAR, open space ratio), §23-22 (number of dwelling units), §23-45 (front yard), §23-462 (side yard), and §23-631 (wall height). R4 district.

PREMISES AFFECTED – 341/349 Troy Avenue, aka 1515 Carroll Street, corner of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD – Laid over to January 26, 2010, at 1:30 P.M., for adjourned hearing.

220-08-BZ

APPLICANT – Moshe M. Friedman, for Samuel Jacobowitz, owner.

SUBJECT – Application August 28, 2008 – Variance (§72-21) to permit the enlargement of a non-conforming one-family dwelling, contrary to §42-10. M1-1 zoning district. PREMISES AFFECTED – 95 Taaffe Place, east side, 123'-3.5" south of intersection of Taaffe Place and Park Avenue, Block 1897, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Moshe M. Friedman and Harold Weinberg.

ACTION OF THE BOARD – Laid over to February 9, 2010, at 1:30 P.M., for continued hearing.

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, Lewis E. Garfinkel and Rabbi Groner.

ACTION OF THE BOARD – Laid over to February 9, 2010, at 1:30 P.M., for continued hearing.

302-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for James Woods, owner.

SUBJECT – Application December 10, 2008 – Variance to permit an existing semi-detached residential building contrary to side yard regulations (ZR §23-462) R5 district. PREMISES AFFECTED – 4368 Furman Avenue, 224' south of the southeast corner of the intersection of Furman Avenue and Nereid Avenue, Block 5047, Lot 12, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Adam Rothkrug and Gino Longo.

For Opposition: Davis.

ACTION OF THE BOARD – Laid over to February 9, 2010, at 1:30 P.M., for continued hearing.

309-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for 147th Avenue Building Corporation, owner.

SUBJECT – Application December 19, 2008 – Variance (§72-21) for the construction of a three story, two-family home on a vacant corner lot contrary to front yards (§23-45) and floor area (§23-141). R4-1 zoning district.

PREMISES AFFECTED – 1717 Pitman Avenue, northwest corner of intersection of Digney Avenue and Pitman Avenue, Block 5049, Lot 21, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to February 2, 2010, at 1:30 P.M., for continued hearing.

43-09-BZ

APPLICANT – Harold Weinberg, P.E., for Paul S. Grosman, owner.

SUBJECT – Application March 10, 2009 – Special Permit (§73-19) to allow a school (*Southside Charter High School*) in a recently constructed building, contrary to use regulations. M1-2 district.

PREMISES AFFECTED – 198 Varet Street, southside 170'-6" west of White Street, between White Street and Bushwick Avenue, Block 3117, Lot 24, Borough of Brooklyn.

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COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

ACTION OF THE BOARD – Laid over to January 26, 2010, at 1:30 P.M., for continued hearing.

53-09-BZ

APPLICANT – Harold Weinberg, P.E., for David Salamon, owner.

SUBJECT – Application April 6, 2009 – Variance (§72-21) for the construction of a three-family home on a vacant undersized lot. This application seeks to vary floor area (§23-141); front yard (§23-45) side yard (§23-461) and parking (§25-161) in an R5 zoning district.

PREMISES AFFECTED – 540 Schenck Avenue, southwest corner of Dumont Avenue, between Schenck Avenue and Hendrix Street, Block 4075, Lot 118, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

For Opposition: Elaine Smith, Pearl C. Thorne and Neville Thorne.

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 January 12, 2010, at 10 A.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.

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 January 26, 2010, at 1:30 P.M., for decision, hearing closed.

182-09-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Mita, Inc., owner.

SUBJECT – Application June 4, 2009 – Variance (§72-21) to legalize the existing UG 3 novitiate and UG 4 house of

worship (*Congregation Mita*), contrary to §§ 24-35 (side yard) and 24-36 (rear yard). R7-2 zoning district.

PREMISES AFFECTED – 612 West 180th Street, 180th Street between Wadsworth and St. Nicholas Avenues, Block 2162, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES –

For Applicant: Eric Palatnik and Carlo Nuzzi.

ACTION OF THE BOARD – Laid over to February 2, 2010, at 1:30 P.M., for continued hearing.

218-09-BZ

APPLICANT – Jeffrey A. Chester, for Rich Gene Realty Corporation, owner; McDonald's Corporation, lessee.

SUBJECT – Application July 8, 2009 – Special Permit (§73-243) to allow an accessory drive-through facility to an eating and drinking establishment (*McDonald's*). C1-3/C8-2 zoning district.

PREMISES AFFECTED – 57 Empire Boulevard, between Mckeever Place and Bedford Avenue, bounded by Sullivan Place on south, Block 1306, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Jeffrey A. Chester.

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 January 12, 2010, at 1:30 P.M., for decision, hearing closed.

239-09-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for New York University, owner.

SUBJECT – Application August 5, 2009 – Variance (§72-21) to allow for the development of a 6 story community facility building (NYU Center for Academic and Spiritual Life) contrary to lot coverage (ZR §24-11) and height and setback regulations (ZR §24-522, §33-431). R7-2/C1-5 and R7-2 Districts.

PREMISES AFFECTED – 238 Thompson Street aka 56 Washington Square South, block bounded by Thompson and West 3rd Streets, Laguardia Place, Washington Square South Block 538, Lot 27, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to January 12, 2010, at 1:30 P.M., for postponed hearing.

253-09-BZ

APPLICANT – MetroPCS New York, LLC, for Jangla Realty Corp., owner; MetroPCS New York, LLC, lessee.

SUBJECT – Application September 4, 2009 – Special Permit (§73-30) to install public utility wireless

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telecommunications facility on roof of existing building. R4 zoning district.

PREMISES AFFECTED – 53-00 65th Place, southwest corner of 53rd Avenue and 65th Place, Block 2374, Lot 160, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: John Coughlins and Robert Toms.

For Opposition: Gary Giordano of Community Board 5Q, Susan Kohl and Walter Sanchez.

ACTION OF THE BOARD – Laid over to February 2, 2010, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.