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March 10, 2010

DIRECTORY

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27-10-BZ

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28-10-BZ

920 Teller Avenue, North east corner of East 162nd Street running though to Park Avenue, Block 2422, Lot(s) 59, Borough of **Bronx, Community Board: 4**. Variance (§72-21) to permit the construction and of a Automotive Service Station (UG 16B), contrary to ZR §32-10. C2-4/R7-1 zoning district. C2-4 W/IN R7-1 district.

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

CALENDAR

MARCH 16, 2010, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 16, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1045-67-BZ

APPLICANT – Michael A. Cosentino, for Thomas Abruzzi, owner.

SUBJECT – Application October 30, 2009 – Application filed pursuant to §§72-01 & 72-22 of the zoning resolution to allow the re-instatement of a variance application granted pursuant to §72-21 which permitted in a R2 zoning district, the construction and maintenance of an accessory parking lot to be used for adjoining commercial uses. The approval expired on June 27, 1998. The application seeks waiver of the Rules of Practice for the late filing of the application and an Amendment of the resolution to eliminate the term.

PREMISES AFFECTED – 160-10 Crossbay Boulevard, Crossbay Boulevard between 160th Avenue and 161st Avenue, Block 14030, Lot 6, 20, Borough of Queens.

COMMUNITY BOARD #10Q

31-09-BZ

APPLICANT – NYC Board of Standards and Appeals
OWNER: R & R Auto Repair & Collision

SUBJECT – Dismissal for lack of prosecution of an application for a Special Permit (§11-411, §11-412 & §11-413) for a change of use from a gasoline service station (UG16b) to automotive repair establishment and automotive sales (UG16b) and the enlargement of the existing one story structure; Re-instatement of the variance which expired on November 12, 1990; Waiver of the Rules of Practice and Procedure. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 117-04 Sutphin Boulevard, southwest corner of Foch Boulevard, Block 1203, Lot 13, Borough of Queens.

COMMUNITY BOARD #12Q

APPEALS CALENDAR

295-09-A & 296-09-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Karen Murphy, Trustee.

SUBJECT – Application October 20, 2009 – Proposed construction of one family home located within the bed of a mapped street (Bache Street) contrary to Section 35 of the General City Law. R3A Zoning District

PREMISES AFFECTED – 81 and 83 Cortlandt Street, south side of Cortlandt Street, bed of Bache street, Block 1039, Lot 25 & 26, Borough of Staten Island.

COMMUNITY BOARD #2SI

MARCH 16, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, March 16, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

192-09-BZ

APPLICANT – Richard Lobel, for Leon Mann, owner.

SUBJECT – Application June 16, 2009 – Variance (§72-21) to allow for the construction of a department store (UG 10) contrary to use regulations (ZR §22-00, §32-00). R6 and R6/C2-3 zones.

PREMISES AFFECTED – 912 Broadway, northeast corner of the intersection of Broadway and Stockton Street, Block 1584, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #3BK

11-10-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 562 Court Street, LLC, owner; Brooklyn Kick Boxing Inc., lessee.

SUBJECT – Application January 26, 2010 – Special Permit (§73-36) to legalize the operation of an existing physical culture establishment on the first floor in a five-story mixed-use building and to permit the extension of that use to include use of a portion of the vacant cellar. C2-3 (R6) zoning district.

PREMISES AFFECTED – 562 Court Street (aka 21 Garnet Street) southwest corner Court Street and Garnet Street, Block 382, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD # 6BK

13-10-BZ

APPLICANT – Eric Palatnik, P.C., for Yakov Platnikov, owner.

SUBJECT – Application January 27, 2010 – Special Permit (§73-622) for the enlargement of an existing two family home to be converted to a single family home, contrary to lot coverage and floor area (§23-141); side yards (§23-461) and rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 79 Amherst Street, east side of Amherst Street, north Hampton Avenue, Block 8727, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MARCH 2, 2010
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

297-99-BZ

APPLICANT – Walter T. Gorman, P.E., for Bell & Northern Bayside Company, LLC, owner; ExxonMobil Corporation, lessee.

SUBJECT – Application January 15, 2010 – Extension of Time to obtain a Certificate of Occupancy for a Gasoline Service Station (*Mobil*) which expires on February 12, 2010. C2-2/R6-B zoning district.

PREMISES AFFECTED – 45-05 Bell Boulevard, east side blockfront between Northern Boulevard and 45th Road, Block 7333, Lot 201, Borough of Queens.

COMMUNITY BOARD #11Q

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 a gasoline service station (Use Group 16) with accessory uses, which expired February 12, 2010; and

WHEREAS, a public hearing was held on this application on February 9, 2010, after due notice by publication in *The City Record*, and then to decision on March 2, 2010; and

WHEREAS, the site is located on the east side of Bell Boulevard between 45th Road and Northern Boulevard, in a C2-2 (R6B) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 3, 1960 when, under BSA Cal. No. 477-31-BZ, the Board granted a variance to permit the construction of a gasoline service station located partially within a business district and partially within a residential district; and

WHEREAS, on September 19, 2000, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-211, to permit the replacement of the existing non-conforming gasoline service station with a larger gasoline service station and an accessory convenience store, to expire on September 19, 2010; and

WHEREAS, on February 12, 2008, under the subject

calendar number, the Board permitted an amendment to the plans and an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, on December 9, 2008, under the subject calendar number, the Board granted a further extension of time to obtain a certificate of occupancy, to expire on February 12, 2010, based on the applicant's representation that the owner would be unable to obtain the certificate of occupancy by the stipulated date due to a boundary dispute with the adjacent property owner; and

WHEREAS, most recently, on October 6, 2009, the Board granted an extension of term, to expire September 19, 2020; and

WHEREAS, the applicant now requests a further extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant states that the boundary dispute remains ongoing and concerns an approximately 70 sq. ft. portion located at the southeast corner of the site, which was designated for landscaping in the Board's previous grants; and

WHEREAS, the applicant represents that the owner has diligently pursued a new certificate of occupancy but has been unable to obtain it because the Department of Buildings cannot issue a sign-off due to the fact that the southeast corner of the site cannot be developed in accordance with the latest BSA-approved drawing because of the boundary dispute; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time 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 September 19, 2000, so that as amended this portion of the resolution shall read: "to extend the time to obtain a certificate of occupancy for 18 months, to expire on September 2, 2011; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a new certificate of occupancy be obtained by September 2, 2011;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 402586554)

Adopted by the Board of Standards and Appeals, March 2, 2010.

78-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Young Israel of New York Hyde Park, owner.

SUBJECT – Application January 25, 2010 – Extension of Time to Complete Construction of a previously granted

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Variance (§72-21) for proposed expansion of an existing synagogue which expired on September 20, 2009; Waiver of the Rules. R-2 zoning district.

PREMISES AFFECTED – 264-15 77th Avenue, southwest corner of 265th Street and 77th Avenue, Block 8538, Lot 29 and 31, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to complete construction of an enlargement to an existing one-story synagogue; and

WHEREAS, a public hearing was held on this application on February 9, 2010, after due notice by publication in *The City Record*, and then to decision on March 2, 2010; and

WHEREAS, the site is located on the southwest corner of the intersection of 265th Street and 77th Avenue, within an R2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since September 20, 2005 when, under the subject calendar number, the Board granted a variance to permit the enlargement of an existing one-story synagogue; and

WHEREAS, substantial construction was to be completed by September 20, 2009, in accordance with ZR § 72-23; and

WHEREAS, the applicant represents that construction has been delayed due to financing issues; and

WHEREAS, thus, the applicant 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 September 20, 2005, so that as amended this portion of the resolution shall read: “to grant an extension of time to complete construction for a term of four years, to expire on March 2, 2014; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT substantial construction shall be completed by March 2, 2014;

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. 402086372)

Adopted by the Board of Standards and Appeals March 2, 2010.

224-07-BZ thru 226-07-BZ

APPLICANT – NYC Board of Standards and Appeals

OWNER: Marvin Welz

SUBJECT – Dismissal for lack of prosecution of an application for a residential development, contrary to rear yard (§23-52) and density (§23-146) regulations. R5 zoning district.

PREMISES AFFECTED – 1940/1942/1946 54th Street, south side of 54th Street, between 19th and 20th Avenue, Block 5495, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #12BK

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, March 23, 2010.

603-86-BZ

APPLICANT – H. Irving Sigman, P.E., for 8826 Parsons LLC, owner.

SUBJECT – Application September 3, 2009 – Extension of Term for a Variance (§72-21) allowing the construction of retail stores (UG 6), which expired on September 8, 2007; Amendment to the accessory open parking area and refuse area and request to eliminate the term; Waiver of the Rules. R7A (Downtown Jamaica Special District) zoning district. PREMISES AFFECTED - 88-34 Parsons Boulevard, a/k/a 88-26/34 Parsons Boulevard. North west corner of Parsons Boulevard and 89th Avenue, Block 9762, Lot 41, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: H. Irving Sigman.

ACTION OF THE BOARD – Laid over to April 13, 2010, at 10 A.M., for continued hearing.

813-87-BZ

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

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Gwynne Five LLC, owner; TSI Cobble Hill LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application October 8, 2009 – Extension of Term for a special permit (§73-36) which expired on April 12, 2008 for the operation of a Physical Culture Establishment (*New York Sports Club*); Waiver of the Rules. C2-3 (R6) zoning district.

PREMISES AFFECTED – 110 Boerum Place, Westerly side of Boerum Place 0 feet northerly of Dean Street, Block 279, Lot 1, Borough of Brooklyn

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

For Opposition: Amanda Cantrell.

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 23, 2010, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

334-09-A

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

SUBJECT – Application December 30, 2009 – Reconstruction and enlargement of a single family home not fronting on a mapped street, contrary to General City Law Section 36, and upgrade of private disposal system in the bed of a service road, contrary to Department of Buildings Policy. R4 zoning district.

PREMISES AFFECTED – 132 Ocean Avenue, west side Ocean Avenue, 110' south mapped 8th Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary D. 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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated December 24, 2009, acting on Department of Buildings Application No. 420107315, 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 contrary to Section 27-291 of the Administrative Code.

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

WHEREAS, a public hearing was held on this application on March 2, 2010, after due notice by publication in the *City Record*, and then to closure and decision on the same date; and

WHEREAS, by letter dated January 20, 2010, the Fire Department states that it has reviewed the subject proposal and has no objections provided that the entire building be fully sprinklered and interconnected smoke alarms be provided; and

WHEREAS, in response, the applicant submitted a site plan indicating that the building will be fully sprinklered; 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 December 24, 2009, acting on Department of Buildings Application No. 420107315, 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 December 30, 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;

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

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

Adopted by the Board of Standards and Appeals, March 2, 2010.

303-09-BZY

APPLICANT – Ray Chen, for 517 53rd Street Inc, owner.

SUBJECT – Application October 30, 2009 – Extension of time (§11-332) to complete construction of an enlargement commenced under the prior C4-3 zoning district. R6B

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zoning district.

PREMISES AFFECTED – 517 53rd Street, between 5th and 6th Avenue, Block 608, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Ray Chen.

ACTION OF THE BOARD – Laid over to March 23, 2010, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING TUESDAY AFTERNOON, MARCH 2, 2010 1:30 P.M.

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

ZONING CALENDAR

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, 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: Todd Dale.

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 Borough Commissioner, dated November 18, 2008, acting on Department of Buildings Application No. 210011832, reads in pertinent part:

- “1. Proposed development is contrary to ZR 23-141(b); maximum floor area requirement.
2. Proposed development is contrary to ZR 23-45; front yard requirement;” and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R4-1 zoning district, the proposed

construction of a three-story two-family home that does not comply with the zoning requirements for floor area and front yards, contrary to ZR §§ 23-141 and 23-45; and

WHEREAS, a public hearing was held on this application on December 15, 2009 after due notice by publication in *The City Record*, with a continued hearing on February 2, 2010, and then to decision on March 2, 2010; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, and Commissioner Ottley-Brown; and WHEREAS, Community Board 12, Bronx, recommends disapproval of this application; and

WHEREAS, the site is located on the northwest corner of Pitman Avenue and Digney Avenue, within an R4-1 zoning district; and

WHEREAS, the site has a width of 20 feet, a depth of 100 feet, and a total lot area of 2,001 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a three-story two-family home; and

WHEREAS, the proposed home will have the following complying parameters: a lot coverage of approximately 46 percent; a side yard with a width of 33’-9” along the western lot line; a front yard with a depth of 20’-0” along the eastern lot line; a wall height of 25’-0”; a total height of 30’-5”; and parking for two cars; and

WHEREAS, however, the applicant proposes to have a floor area of 2,575 sq. ft. (the maximum permitted floor area is 1,801 sq. ft.); an FAR of 1.29 (.90 FAR is the maximum permitted), and no front yard along the southern lot line (a front yard with a minimum depth of 10’-0” is required); and

WHEREAS, the applicant originally proposed to construct a three-story two-family home with a floor area of 3,028 sq. ft. (1.51 FAR); and

WHEREAS, during the course of the hearing process the applicant revised its proposal to provide a floor area of 2,575 sq. ft. (1.29 FAR), thereby reducing the floor area waiver; and

WHEREAS, the applicant notes that the subject lot is undersized as defined by ZR § 23-32; and

WHEREAS, the applicant represents that it satisfies the requirements of ZR § 23-33, which permits the construction of a two-family home on an undersized lot provided that the lot was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a building permit; and

WHEREAS, in support of this, the applicant submitted a title report and deeds reflecting that the site has existed in its current configuration since before December 15, 1961 and its ownership has been independent of the ownership of the two adjoining lots; and

WHEREAS, the applicant states that floor area and front yard relief is necessary, for reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the subject corner lot is narrow and there is a significant slope and rock

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presence at the site; and

WHEREAS, the applicant represents that the pre-existing lot width of 20'-0" cannot feasibly accommodate a complying development; and

WHEREAS, the applicant states that the subject site is a corner lot, which requires front yards with widths of 20'-0" and 10'-0", respectively; and

WHEREAS, the applicant states that the building would have a maximum exterior width of 10'-0" and constrained floor plates if front yard regulations were complied with fully; and

WHEREAS, accordingly, the applicant represents that the front yard waiver is necessary to create a building with a sufficient width; and

WHEREAS, as to the uniqueness of this condition, the applicant submitted a 200-ft. radius diagram reflecting that there is only one other lot in the surrounding neighborhood with a width as narrow as the subject site, and that lot is occupied by a garage; and

WHEREAS, as to the site's rock presence and change in grade, the applicant states that there is a 15-ft. difference in grade between the southeast corner of the site and the northwest corner of the site and submitted a survey indicating the presence of rocks throughout portions of the site; and

WHEREAS, the applicant states that the significant change in grade and rock presence at the site preclude the construction of a cellar; and

WHEREAS, specifically, the applicant states that, due to the rock condition, providing a cellar would be cost prohibitive, as it would require significant sub-surface excavation and rock removal; and

WHEREAS, the applicant further states that providing a cellar would result in an undesirable structure where the basement, first floor and a portion of the second floor would all be below the grade of the retaining wall to the north; and

WHEREAS, accordingly, floor space which could otherwise be located underground and would not contribute to the floor area, must be accommodated in the basement, thereby increasing the degree of non-compliance with floor area requirements; and

WHEREAS, the applicant states that the floor area waiver is also necessary in order to provide a two-family home that satisfies the requirement for minimum size of dwelling units; and

WHEREAS, pursuant to ZR § 23-23, each dwelling unit in a two-family home within an R4-1 zoning district must have a minimum floor area of 925 sq. ft.; therefore, a minimum of 1,850 sq. ft. of floor area is required to provide a two-family home; and

WHEREAS, the applicant represents that, due to the small size of the subject lot, a maximum of 1,801 sq. ft. of floor area is permitted as-of-right; thus, the subject site could not accommodate a two-family home without the requested floor area waiver; and

WHEREAS, the applicant states that all of the lots on the subject block are occupied by two-family homes; and

WHEREAS, therefore, the applicant states that the requested floor area waiver is necessary to provide a two-family home that complies with the minimum size of dwelling

units and provides a basement to accommodate floor space that could otherwise be located in a cellar; and

WHEREAS, based upon the above, the Board finds that the cited unique physical conditions create practical difficulties in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that compliance with applicable zoning regulations will result in a habitable home; and

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

WHEREAS, the applicant notes that the proposed bulk is compatible with nearby residential development; and

WHEREAS, specifically, the applicant submitted a floor area survey reflecting that eight of the 19 lots within a 200-ft. radius of the site have more floor area than the proposed home; and

WHEREAS, the applicant states that there are only two other lots within a 200-ft. radius of the site with frontage on the north side of Pitman Avenue; the building on one of the lots fronts on Barnes Avenue, rather than Pitman, and the other similarly does not provide a front yard on Pitman Avenue; thus, the requested front yard waiver will not alter the front yard context along the north side of Pitman Avenue; and

WHEREAS, the applicant further states that, although a three-story home is proposed, due to the significant slope on the site, the first floor of the proposed home would be at the equivalent elevation of the cellars of the two adjacent homes, and the peak elevation of the proposed home would be the lowest on the subject block; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a result of the pre-existing unique physical conditions cited above; and

WHEREAS, as noted above, the applicant originally proposed to construct a three-story two-family home with a floor area of 3,028 sq. ft. (1.51 FAR); and

WHEREAS, at the Board's direction, the applicant revised the proposal to reflect a three-story two-family home with a floor area of 2,575 sq. ft. (1.29 FAR), thereby reducing the requested floor area waiver; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 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 § 72-21 to permit, within an R4-1 zoning district, a three-story two-family home that

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does not comply with the zoning requirements for floor area and front yards, contrary to ZR §§ 23-141 and 23-45; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received January 26, 2010”– (6) sheets and “March 1, 2010”–(1) sheet; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: a maximum floor area of 2,575 sq. ft. (1.29 FAR); a lot coverage of approximately 46 percent; a side yard with a width of 33’-9” along the western lot line; a front yard with a depth of 20’-0” along the eastern lot line; a wall height of 25’-0”; a total height of 30’-5”; and parking for two cars, as per the BSA-approved plans;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

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

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

THAT significant construction shall proceed in accordance with ZR § 72-23;

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

Adopted by the Board of Standards and Appeals, March 2, 2010.

182-09-BZ

CEQR #10-BSA-115M

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.

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 Commissioner, dated May 13, 2009, acting on Department of Buildings Application No. 110160753, reads:

“Proposed side yard of 4’-6” is contrary to ZR 23-462, which requires min. 8’-0” width if side yard is

provided.

Proposed back yard of 3’-8” at 2nd floor is contrary to ZR 23-47 which requires min. 30’-0”;

WHEREAS, this is an application for a variance pursuant to ZR § 72-21, to permit, on a site within an R7-2 zoning district, the legalization of an existing novitiate (Use Group 3) and church (Use Group 4), which does not comply with side yard and rear yard regulations, contrary to ZR §§ 23-462 and 23-47; and

WHEREAS, a public hearing was held on this application on December 15, 2009, after due notice by publication in *The City Record*, with a continued hearing on February 2, 2010, and then to decision on March 2, 2010; 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 12, Manhattan, states that it has no objection to the application; and

WHEREAS, certain members of the community provided testimony in opposition to the proposal, citing concerns about traffic and the maintenance of the site; and

WHEREAS, this application is brought on behalf of Congregation Mita, a non-profit religious entity (the “Congregation”); and

WHEREAS, the subject site is located on the west side of West 180th Street, between Wadsworth Avenue and St. Nicholas Avenue, within an R7-2 zoning district; and

WHEREAS, the site has 75 feet of frontage on West 180th Street, a depth of 100 feet, and a total lot area of approximately 7,500 sq. ft.; and

WHEREAS, the site is currently occupied by a three-story community facility building with a novitiate (the “Church”), which provides accommodations to religious students (Use Group 3) and a house of worship (Use Group 4), for a total floor area of 18,329.67 sq. ft. (2.44 FAR); and

WHEREAS, the applicant currently seeks to legalize an enlargement to the Church which increased the degree of non-compliance of the side and rear yards; and

WHEREAS, the pre-existing building provided a rear yard with a depth of 2’-8” and side yards with widths of 4’-6” behind the full-width facade, which were pre-existing legal non-complying conditions (a rear yard with a depth of 30 feet and two side yards, if any side yards are provided, with minimum widths of 8’-0” each are required for a community facility); although, the first floor, with a height of less than 23 feet, was permitted within the required rear yard, pursuant to community facility regulations; and

WHEREAS, the enlarged second floor, which extended the pre-existing partial second floor was built on the footprint of the pre-existing first floor and maintains the existing non-complying side yards and rear yard; and

WHEREAS, the proposal provides for the following uses: (1) the cellar, which is occupied by a small cafeteria and kitchen, and mechanicals; (2) the main sanctuary on the first floor; (3) the novitiate’s lounge, kitchen, office, and sleeping quarters on the second floor; and (4) novitiate sleeping quarters

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on the third floor; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Congregation which necessitate the requested variance: (1) a house of worship to provide space for religious services and educational programming and (2) a novitiate to accommodate participants in the formal process of advancing through the sect's spiritual ranks, which involves retreats with prayer and religious education; and

WHEREAS, the applicant represents that the religious training, which draws participants from around the world, requires the separation of the novitiates, ministers, pastors, and deacons from the rest of the Congregation during intense spiritual retreats six to nine times per year; and

WHEREAS, the applicant represents that the physical space requirements include (1) separate men's and women's sleeping quarters to accommodate approximately 51 participants; (2) a dining room which is separate from the remainder of the Congregation; (3) a study lounge which can accommodate all persons participating in the spiritual retreats to allow for education and prayer study; (4) a kitchen which is separate from the Congregation's general kitchen; and (5) space for laundry and other accessory uses; and

WHEREAS, further, the applicant represents that the novitiate facilities must be placed in close proximity to each other and nearby to but separate from the other portions of the building, which are generally accessible; and

WHEREAS, the applicant represents that, prior to the enlargement, the site was occupied by a house of worship constructed in the 1920s, which has historically been used by religious institutions; and

WHEREAS, the applicant states that in 2004, the Congregation enlarged the rear portion of the pre-existing second story of the building and added a partial third story at the front of the building such that the current building is a full two stories with a partial third story; and

WHEREAS, the applicant states that the Congregation enlarged the building, which provided only the sanctuary and a partial second floor in order to accommodate its programmatic needs; and

WHEREAS, the applicant represents that in an as-of-right enlargement, the novitiate's gathering space, which is now on the second floor, would have to be located on a smaller third or fourth floor; and

WHEREAS, the applicant represents that dividing the space up vertically on multiple smaller floors, rather than on one larger floor and one smaller floor, does not support the programmatic need of horizontal space to foster interaction and the exchange of ideas; and

WHEREAS, the applicant represents that the first floor house of worship accommodates the Congregation's needs for church services, which have been established since 1982, and thus maintaining the location was essential to its congregants; and

WHEREAS, the applicant represents that the size, layout and design of the pre-existing building was inadequate to serve the current needs of the congregation and would be inadequate for its future needs; and

WHEREAS, specifically, the applicant states that the pre-existing building at the site only accommodated the house of worship and not the novitiate; and

WHEREAS, the applicant states that the requested waivers enable the Congregation to legalize the existing building, maintain the use it accommodated and meet the interconnected programmatic needs of the novitiate; and

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

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

WHEREAS, the Board notes that the applicant provided evidence of the Congregation's status as a non-profit religious institution and of the novitiate's status and established religious program; and

WHEREAS, in addition to its programmatic needs, the applicant represents that the existing building on the site constrains the ability to provide complying yards; and

WHEREAS, specifically, the applicant states that the existing side yards and rear yard do not comply with community facility regulations, and therefore the Congregation would be forced to set back the new portion of the second floor and the third floor to provide the complying side yards; and

WHEREAS, the applicant represents that, from a structural and design standpoint, it is more efficient to extrude the existing exterior walls such that the new walls do not create new non-compliance as to the yards, but rather increase the degree of the existing non-compliance, which is legal due to the pre-1961 construction of the pre-existing building; and

WHEREAS, the applicant notes that the third floor includes skylights to provide adequate light and air to the sleeping accommodations, since the windows at the front of the third floor are insufficient; the applicant represents that the addition of a fourth floor would eliminate the skylights and result in the need for a costly retrofitting of the front windows, which are old and arched-shaped; and

WHEREAS, the applicant represents that the existing third-floor windows can not be made operable and new custom-built windows would be required, at a significant expense to the Congregation; and

WHEREAS, thus, the applicant represents the programmatic need for larger floorplates with horizontal space to promote connectivity, the efficiency of extending the existing exterior walls, and the cost of retrofitting the existing building associated with adding a fourth floor, necessitated that the second floor be built out; and

WHEREAS, the applicant represents that, without the

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yard waivers, the floorplates would be constrained and there would not be sufficient space to accommodate all participants in the novitiate program; only a maximum of 44 people could be accommodated for sleeping and there would be a 54 percent loss in the common space on the second floor; the dining room and kitchen would similarly be reduced; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Congregation and the constraints of the historic building create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Congregation 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 enlarged building does not alter the essential character of the neighborhood, does not substantially impair the appropriate use or development of adjacent property, and is not detrimental to the public welfare; and

WHEREAS, the applicant states that that the proposed/existing use and floor area are permitted as-of-right in the subject zoning district and only the extension of the pre-existing non-complying yards is contrary to zoning district regulations; and

WHEREAS, specifically, the applicant notes that the height of 41'-8" is less than the heights of buildings on adjacent lots, including multiple dwelling buildings on either side of the site; and

WHEREAS, the radius diagram submitted by the applicant also establishes that the bulk and height of the Congregation's building are consistent with the bulk and height of the homes in the surrounding neighborhood, which have heights ranging between three and 32 stories; and

WHEREAS, as reflected on the radius diagram, the four sites at the rear of the site, occupied by a multiple dwelling, two stores, and an office building in three-story buildings, provide rear yards, which allows for open space adjacent to the Congregation's pre-existing absence of a rear yard; and

WHEREAS, the Board notes that the site could be developed as-of-right with a building with greater height and floor area, if all yards were provided; and

WHEREAS, the Board further notes that the enlargement does not create any new non-compliance but rather increases the degree of existing non-compliance; and

WHEREAS, the applicant notes that the subject enlargement is only minimally visible from the West 180th Street frontage; and

WHEREAS, at hearing, the Board directed the applicant to confirm that the enlarged building complies with all Building Code, Fire Code, and any other relevant requirements specifically with regard to light and air and egress; and

WHEREAS, in response, the applicant stated that all requirements are met, including the location of the air-conditioning condensers; and

WHEREAS, the applicant agreed to review the plans with the Department of Buildings to confirm compliance; and

WHEREAS, in response to community concerns about traffic, the applicant states that the Congregation has installed a parking guard to direct traffic; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Congregation could occur on the existing lot; and

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

WHEREAS, the Board notes that the building complies with all bulk and use regulations, with the exception of the non-complying yards; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Congregation the relief needed both to meet its programmatic needs and to occupy a building that is compatible with the character of the neighborhood; 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 617.12 (a) and 617.5; 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) 09BSA115M, dated May 22, 2009; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R7-2 zoning district, the legalization of an existing novitiate (Use Group 3) and church (Use Group 4), which does not comply

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with side yard and rear yard regulations, contrary to ZR §§ 23-462 and 23-47, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received December 1, 2009” – Seven (7) sheets; and *on further condition*:

THAT the building parameters shall be as reflected on the approved plans;

THAT any change in control or ownership of the building shall require the prior approval of the Board;

THAT the use shall be limited to a house of worship (Use Group 4) and novitiate (Use Group 3);

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

THAT DOB shall review the building for compliance with light and air and egress requirements;

THAT DOB shall review the building’s mechanicals, including the air-conditioning condenser for compliance with all relevant regulations;

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

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

THAT construction shall proceed in accordance with ZR § 72-23;

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

Adopted by the Board of Standards and Appeals, March 2, 2010.

2-10-BZ

CEQR #10-BSA-038M

APPLICANT – Akerman Senterfitt LLP, for The New York Eye & Ear Infirmary, owner.

SUBJECT – Application January 6, 2010 – Special Permit (§73-641) to allow enlargement of a community facility (*New York Eye and Ear Infirmary*) within the required rear yard equivalent, contrary to §33-283. C1-6A/C1-7A zoning districts.

PREMISES AFFECTED – 310 East 14th Street, block front on east side of Second Avenue between 13th and 14th Streets, Block 455, Lot 1, 5, 7, 60, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Calvin Wong.

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 Commissioner, dated January 5, 2010, acting on Department of Buildings Application No. 120235717, reads in pertinent part:

“ZR § 33-283. Proposed enlargement encroaches into the required rear yard equivalent of the through lot, and requires a special permit from the BSA pursuant to ZR § 73-641;” and

WHEREAS, this is an application under ZR §§ 73-641 and 73-03, to permit, on a site located within a C6-2 zoning district, the proposed enlargement of a nine-story community facility building, which does not comply with the zoning requirements for rear yards, contrary to ZR § 33-283; and

WHEREAS, a public hearing was held on this application on February 9, 2010, after due notice by publication in *The City Record*, and then to decision on March 2, 2010; 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 3, Manhattan, recommends approval of this application; and

WHEREAS, a neighbor who sought additional information on the application cited concerns about the potential impact of construction at the site, but did not raise any specific objection to the proposal or submit any subsequent testimony; and

WHEREAS, this application is brought on behalf of the New York Eye and Ear Infirmary (“NYEE”); and

WHEREAS, the subject site is located on a through lot bounded by East 14th Street to the north, Second Avenue to the west, and East 13th Street to the south, partially within a C1-7A zoning district and partially within a C1-6A zoning district; and

WHEREAS, the applicant states that NYEE occupies the entire eastern frontage of Second Avenue, between East 13th and East 14th Streets, and consists of four tax lots: Lot 1 is occupied by a six-story building on the southern portion of the site (the “South Building”); Lot 5 is occupied by a nine-story building on the northern portion of the site (the “North Building”); and Lots 7 and 60 are occupied by a one-story optical store and parking lot, respectively; and

WHEREAS, the applicant proposes to construct a 3,938 sq. ft., enlargement of the second floor at the rear of the North Building, 2,370 sq. ft. of which will encroach into the required rear yard equivalent of the through lot; and

WHEREAS, the applicant states that because the site is a through lot, pursuant to ZR § 33-283, an open area with a minimum depth of 40 feet midway between the two street lines upon which the through lot fronts must be provided as a rear yard equivalent; and

WHEREAS, the applicant further states that an existing portion of the South Building, constructed in 1893, also encroaches into the required rear yard equivalent and is a legal pre-existing non-compliance; and

WHEREAS, the applicant states that the proposed enlargement of the North Building will increase the total floor

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area occupied by NYEE from 169,077 sq. ft. (3.77 FAR) to 173,015 sq. ft. (3.85 FAR); the maximum floor area permitted is 282,730 sq. ft. (6.3 FAR); and

WHEREAS, as a result of the enlargement to the North Building, the applicant requests the following modification: a rear yard equivalent of 10'-9½" (40'-0" is the minimum required); and

WHEREAS, the applicant submitted a correspondence from the Landmarks Preservation Commission ("LPC") stating that the proposed addition does not appear to have an impact on 218 Second Avenue (South Building) which may be LPC and State/National Registers of Historic Places eligible, and that there are no further concerns; and

WHEREAS, as a threshold requirement under ZR § 73-641, the applicant must establish that it has owned a portion of the zoning lot and continuously occupied and used one or more buildings located thereon for a specified community facility use from December 15, 1961 until the time of the application and to the present; and

WHEREAS, the applicant represents that it has owned Lot 1 since before December 15, 1961; and

WHEREAS, in support of the above representation, the applicant has submitted a deed dated April 8, 1915, which reflects that NYEE acquired title to the property that currently constitutes Lot 1 in Block 455; and

WHEREAS, the applicant states that NYEE has utilized the South Building, located on Lot 1, for a community facility use since 1856; and

WHEREAS, accordingly, the Board finds that the applicant has satisfied the threshold requirement of ZR § 73-641; and

WHEREAS, the applicant represents that the proposed modification is required in order to provide an essential service to the community, as per ZR § 73-641(a); and

WHEREAS, the applicant states that the proposed enlargement is necessary to meet the current demand for services at NYEE and to satisfy modern health and safety standards; and

WHEREAS, the applicant states that between 2005 and 2007, NYEE has experienced a 35 percent increase in inpatients and an 11 percent increase in ambulatory surgeries, and there has been a six percent growth in services provided by the Retina Center in the last two years; and

WHEREAS, the applicant further states that the New York State Commission for Health Care Facilities in the 21st Century Final Report mandated the closure of all 150 inpatient beds of the Manhattan Eye, Ear and Throat Hospital and the closure of the Cabrini Medical Center; and

WHEREAS, the applicant represents that as a result of these closures, NYEE is the only such medical facility in the area and is experiencing an increased demand for its services as patients formerly served by these nearby hospitals now look to NYEE for care; and

WHEREAS, the applicant states that the existing NYEE facility has ten operating rooms and 15 bays in the Post Anesthesia Care Unit ("PACU") which were built in 1969 and do not meet the current standards for health and

safety; and

WHEREAS, the applicant represents that two additional operating rooms are required in order to meet the increased demand at the facility; and

WHEREAS, the applicant further represents that, in order to provide the additional operating rooms, NYEE must update and expand the PACU and many of the support areas on the second floor to satisfy modern health and safety standards; and

WHEREAS, accordingly, the Board finds that the requested modification is required in order to enable NYEE to provide an essential service to the community; and

WHEREAS, the applicant states that, as per ZR § 73-641(b), without the requested rear yard equivalent modification there is no way to design and construct the proposed enlargement in satisfactory physical relationship with the existing buildings on the site, so as to produce an integrated development; and

WHEREAS, the applicant represents that the subject enlargement is required to be located at its proposed location on the second floor contiguous with the existing operating rooms and PACU; and

WHEREAS, the applicant states that locating the enlargement anywhere else on the site would reduce efficiency, increase staff requirements, duplicate support services, and create economic hardships for NYEE; and

WHEREAS, the applicant further states that the location of the proposed enlargement contiguous to the In-Patient Surgical Platform is required pursuant to §§ 5.4.1.2 and 5.3.3.2 of the 2006 AIA Guidelines for Design and Construction of Hospitals and Healthcare Facilities; and

WHEREAS, the applicant concludes that the requested modification of the rear yard requirements is therefore necessary to provide the proposed enlargement in a satisfactory physical relationship to the existing structure, so as to produce an integrated development; and

WHEREAS, the applicant states that, as per ZR § 73-641(c), such modification is the minimum necessary to permit the proposed development, and thereby creates the least detriment to the character of the neighborhood and the use of nearby zoning lots; and

WHEREAS, the applicant represents that the proposed enlargement is essential to meet the increased demand for NYEE's medical services and to bring the existing 1969 building in line with modern health and safety standards, and that due to the physical constraints of the existing structures, the enlargement cannot be located anywhere else on the site; and

WHEREAS, the applicant states that the impact of the proposed enlargement on surrounding developments will be minimal because it will only be located on the second floor; and

WHEREAS, the applicant further states that the property that will be directly affected by any impact of the proposed enlargement is the building to the southeast of the subject site on Lot 52, which is a dormitory building owned by NYEE that houses NYEE residents; and

WHEREAS, the Board notes that only the rear 20 feet

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of the proposed enlargement will encroach into the required rear yard equivalent; and

WHEREAS, the Board further notes that the proposed enlargement will reach a height of approximately 28 feet, and that a height of 23 feet would be allowed as-of-right as a permitted encroachment if it were limited to one-story; and

WHEREAS, the Board further notes that the legally non-complying South Building encroaches approximately 9'-2 1/2" into the rear yard equivalent; thus, if not for the pre-existing non-compliance of the South Building, a rear yard equivalent of 20'-0" could be provided; and

WHEREAS, accordingly, the Board finds the requested modification is the minimum necessary to permit the development of an integrated community facility that will thereby create the least detriment to the character of the neighborhood and the use of nearby zoning lots; and

WHEREAS, at hearing, the Board inquired about the relocation of the existing mechanical equipment currently located on the roof of the first floor, above which the subject enlargement is proposed; and

WHEREAS, in response, the applicant states that the existing mechanical equipment will be relocated from the roof of the first floor to the roof of the second floor; and

WHEREAS, the applicant notes that the third floor windows facing in the direction of the mechanical equipment will be occupied by a staff locker room; and

WHEREAS, 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 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 §§ 73-641 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 10BSA038M dated January 6, 2010; 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, no other significant effects upon the

environment that would require an Environmental Impact Statement are foreseeable; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, 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 §§ 73-641 and 73-03, to permit, on a site located partially within a C1-7A zoning district and partially within an C1-6A zoning district, the proposed construction of an enlargement to a nine-story community facility building, which does not comply with the zoning requirement for rear yard yards, contrary to ZR § 33-283; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received February 2, 2010"-(18) sheets; and *on further condition:*

THAT the bulk parameters of the building shall be as reflected on the BSA-approved plans;

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

THAT substantial construction shall be completed pursuant to ZR § 73-70;

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

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

Adopted by the Board of Standards and Appeals, March 2, 2010.

239-07-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for YHA New York Inc., owner.

SUBJECT – Application October 24, 2007 – Variance (§72-21) to permit a community youth center (UG 4) in the cellar and first floor in a proposed three-story and penthouse mixed-use building, contrary to side yard (§24-35). R5 zoning district.

PREMISES AFFECTED – 57-38 Waldron Street, south side of Waldron Street, 43.71' west of 108th Street, east of Otis Avenue, Block 1959, Lot 27, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to April 20,

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2010, at 1:30 P.M., for continued hearing.

256-07-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP for Hayden Rester, owner.

SUBJECT – Application November 5, 2007 – Variance (§72-21) to permit a three-story, five-unit residential building, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 1978 Atlantic Avenue, Southern side of Atlantic Avenue, 180 feet west of the intersection of Atlantic and Ralph. Block 1339, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD # 8BK

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to March 23, 2010, at 1:30 P.M., for deferred decision.

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.

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 16, 2010, at 1:30 P.M., for decision, hearing closed.

160-08-BZ

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

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

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

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Peter Hirschman, Frank Angelino, Jack Freeman and Michael Fostaia.

For Opposition: Ronald J. Dillon.

ACTION OF THE BOARD – Laid over to April 13, 2010, at 1:30 P.M., for continued hearing.

186-08-BZ

APPLICANT – Petrus Fortune, P.E., for Kevin Mast. Chairman, Followers of Jesus Mennonite Church, owner.

SUBJECT – Application July 10, 2008 – Special Permit (§73-19) to allow the legalization and enlargement of a school (*Followers of Jesus Mennonite Church & School*) in a former manufacturing building, contrary to ZR §42-10. M1-1 zoning district.

PREMISES AFFECTED – 3065 Atlantic Avenue, northwest corner of Atlantic Avenue and Shepherd Avenue, Block 3957, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to April 27, 2010, at 1:30 P.M., for deferred decision.

187-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation and Yeshiva Machzikei Hadas, Inc., owner.

SUBJECT – Application July 11, 2008 – Variance (§72-21) to permit the construction of a six-story community facility building (*Congregation & Yeshiva Machzikei Hadas*), contrary to ZR §42-00. M2-1 zoning district.

PREMISES AFFECTED – 1247 38th Street, east side of 38th Street, between 13th and 12th Avenue, Block 5295, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel.

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 16, 2010, at 1:30 P.M., for decision, hearing closed.

173-09-BZ

APPLICANT – Law Offices of Howard Goldman LLC, for 839-45 Realty LLC, owner; 839 Broadway Realty LLC, lessee.

SUBJECT – Application May 21, 2009 – Variance (§72-21) to allow a seven-story mixed use building, contrary to use regulations (§32-00, §42-00). C8-2/M1-1 zoning districts.

PREMISES AFFECTED – 845 Broadway, between Locust and Park Streets, Block 3134, Lot 5, 6, 10, 11, Borough of Brooklyn.

COMMUNITY BOARD #4BK

APPEARANCES –

For Applicant: Chris Wright, Howard Goldman and Ken Olson.

MINUTES

ACTION OF THE BOARD – Laid over to April 13, 2010, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

282-09-BZ

APPLICANT – Steven Williams, P.E., for KC&V Realty, LLC, owner; Richard Ortiz, lessee.

SUBJECT – Application October 7, 2009 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (*Ritchie's Gym*) on the third floor of a four-story commercial building. C4-3 zoning district.

PREMISES AFFECTED – 54-19 Myrtle Avenue, northeast corner of Myrtle Avenue, intersection of Palmetto Street and Myrtle Avenue, Block 3445, Lot 9, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Ritchie Ortic.

ACTION OF THE BOARD – Laid over to April 13, 2010, at 1:30 P.M., for continued hearing.

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

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to March 23, 2010, at 1:30 P.M., for adjourned hearing.

329-09-BZ

APPLICANT – Eric Palatnik, P.C., for Yevgenya Loffe, owner.

SUBJECT – Application December 18, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141). R3-1 zoning district.

PREMISES AFFECTED – 26 Falmouth Street, Block 8744, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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 March 23, 2010, at 1:30 P.M., for decision, hearing closed.