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OF THE
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AND APPEALS

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58-10-BZ

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59-10-BZ

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60-10-BZ

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61-10-BZ

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62-10-A

100 Oak Point Avenue, South of the Bruckner Expressway, west of Barry Street and Oak Point Avenue., Block 2604, Lot(s) 174, Borough of **Bronx, Community Board: 2**. Construction not fronting a mapped street, contrary to GCL. M3-1 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

MAY 18, 2010, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 18, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

7-00-BZ

APPLICANT – Friedman & Gotbaum, for Trustees of the New York City Rescue Mission, owners.

SUBJECT – Application February 18, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the enlargement of a UG3 non-profit homeless shelter (New York City Rescue Mission) which expired on March 11, 2009; waiver of the rules. C6-2A zoning district.

PREMISES AFFECTED – 90 Lafayette Street, northwest corner of Lafayette and White Streets, Block 195, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #1M

151-05-BZ

APPLICANT – John R. Roe c/o Shalimar Management, for 100 Varick Street, LLC, owner.

SUBJECT – Application – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a 10 story residential building which expires on August 8, 2010. M1-6 zoning district.

PREMISES AFFECTED – 100 Varick Street, easterly side of Varick Street between Broome Street and Watts Street, Block 477, Lot 35, 42, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEALS CALENDARS

298-09-A

APPLICANT – Breezy Point Cooperative Inc., for Ann Baci, owner.

SUBJECT – Application October 23, 2009 – Reconstruction and enlargement of an existing single family home not fronting on a legally mapped street contrary to General City Law Section 36. R4 zoning district.

PREMISES AFFECTED – 109 Beach 217th Street, east side Beach 217th Street, 160' south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

299-09-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Vincent Kennedy, lessee.

SUBJECT – Application October 23, 2009 – Reconstruction and enlargement of an existing single family home not fronting a legally mapped street contrary to General City Law Section 36, partially located within the bed of a mapped street contrary to General City Law Section 35 and the upgrade of a private disposal system in the bed of service road contrary to Department of Buildings Policy. R4 Zoning district.

PREMISES AFFECTED – 4 Lincoln Walk, west side Lincoln Walk, 100', south of paved Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

53-10-A

APPLICANT – Sheldon Lobel, P.C., for West New York Property Consulting LLC, owner.

SUBJECT – Application April 12, 2010 – Appeal seeking a determination that the owner has acquired a vested right to complete construction under the prior zoning district R7-1. R5A zoning district.

PREMISES AFFECTED – 2031 Burr Avenue, 157' northwest of the corner of Burr Avenue and Westchester Avenue, Block 4249, Lot 39, Borough of Bronx.

COMMUNITY BOARD #10BX

MAY 18, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 18, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

210-07-BZ

APPLICANT – Eric Palatnik, P.C., for Gasper Nogara, owner.

SUBJECT – Application August 30, 2007 – Variance (§72-21) to allow for a residential use in a manufacturing district, contrary to 42-00. M1-1 zoning district.

PREMISES AFFECTED – 15 Luquer Street, Northern side of Luquer Street between Columbia and Hicks Streets, Block 513, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #6BK

CALENDAR

33-10-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Vornado Realty Trust, owner; 692 Broadway Fitness Club, Inc., lessee.

SUBJECT – Application March 18, 2010 – Special Permit (§73-36) to allow the operation of a physical culture establishment. M1-5B zoning district.

PREMISES AFFECTED – 692 Broadway (aka 384/8 Lafayette Street, 2/20 East 4th Street) southeast corner of intersection of Broadway and East 4th Street, Block 531, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #2M

36-10-BZ

APPLICANT – Eric Palatnik, P.C., for Karen Abramowitz, owner.

SUBJECT – Application March 22, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space ration (23-141); side yard (23-461) and rear yard (23-47). R3-2 zoning district.

PREMISES AFFECTED – 1225 East 28th Street, south of Avenue L, Block 7646, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #14BK

37-10-BZ

APPLICANT – Eric Palatnik, P.C., for Hadassah Bakst, owner.

SUBJECT – Application March 22, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space (23-141); side yard (23-461) and rear yard (23-47). R3-2 zoning district.

PREMISES AFFECTED – 1230 East 27th Street, south of Avenue L, Block 7644, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, APRIL 27, 2010
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

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 – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term of a previously granted variance to permit the construction of retail stores (Use Group 6), and an amendment to permit minor modifications to the previously approved plans; and

WHEREAS, a public hearing was held on this application on December 8, 2009 after due notice by publication in *The City Record*, with continued hearings on March 2, 2010 and April 13, 2010, and then to decision on April 27, 2010; and

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

WHEREAS, Queens Borough President Helen Marshall recommends approval of this application; and

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

WHEREAS, the site is located on the northwest corner of Parsons Boulevard and 89th Avenue, in an R7A zoning district within the Downtown Jamaica Special District; and

WHEREAS, the Board has exercised jurisdiction over the subject site since September 8, 1987 when, under the

subject calendar number, the Board granted a variance to permit the construction of one-story retail stores (Use Group 6), to expire on September 8, 2007; and

WHEREAS, the applicant now seeks an extension of term for an additional 20 years; and

WHEREAS, the applicant represents that a 20-year term is necessary because: (1) quality tenants typically require a longer term over which to amortize their initial investment; (2) it would give the existing retail tenants and their employees job security and stability; (3) it would allow the property to stay competitive in the current economic climate; and (4) a shorter term would make it difficult to obtain conventional financing; and

WHEREAS, accordingly, the Board finds the requested 20-year term appropriate; and

WHEREAS, the applicant also requests an amendment to permit: (1) the relocation of the refuse area to the northwest corner of the parking lot and the increase in size of the refuse area to approximately 16'-0" by 18'-0", enclosed with an 8'-0" high fence and gate with 100 percent opaque screening; and (2) a modification to the accessory open parking lot to reflect an increase in the number of parking spaces from eight to nine, including one space for handicapped parking, and a change from a single-loaded perpendicular parking scheme to a double-loaded perpendicular parking scheme; and

WHEREAS, the applicant states that the relocation of the refuse area was necessary to permit the installation of and access to the exterior gas meters; and

WHEREAS, at hearing, the Board questioned whether the parking area was of a sufficient size for delivery trucks to maneuver during loading and unloading; and

WHEREAS, in response, the applicant submitted a letter from the owner of the site stating that the deliveries of supplies and merchandise to the stores do not conflict with the operation of the accessory parking facility because the delivery vehicles generally consist of small vans which are parked at the site for short periods of time, and because there is an approximately 18'-0" by 18'-0" area adjoining the rear of the building that is provided for loading and unloading operations; and

WHEREAS, at hearing, the Board directed the applicant to bring the site into compliance with C1 district signage regulations; and

WHEREAS, in response, the applicant submitted revised drawings, a revised signage analysis, and photographs of the site to show that the signage is being brought into compliance with C1 signage regulations; and

WHEREAS, the Board also inquired as to whether the applicant complies with the conditions set forth in the CEQR conditional negative declaration dated February 6, 1987; and

WHEREAS, in response, the applicant states that it either complies with or is in the process of complying with all conditions of the conditional negative declaration; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term and amendments to the previously-approved variance are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens,*

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and *amends* the resolution, as adopted on September 8, 1987, so that as amended this portion of the resolution shall read: “to extend the term for a period of 20 years from September 8, 2007 to expire September 8, 2027, and to amend the grant to permit the relocation and enlargement of the refuse area and the modification of the accessory open parking lot; *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received September 3, 2009”- (2) sheets; and *on further condition*:

THAT the term of this grant shall expire on September 8, 2027;

THAT all signage shall comply with C1 zoning regulations;

THAT the owner shall comply with the conditions set forth in the conditional negative declaration;

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

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)/configuration(s) not related to the relief granted.” (DOB App. No. 410193259)

Adopted by the Board of Standards and Appeals, April 27, 2010.

72-99-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for PGREF I 1633 Broadway Tower, L.P., owner; Equinox 50th Street, Incorporated, lessee.

SUBJECT – Application January 12, 2010 – Extension of Term to permit the continued operation of a Physical Cultural Establishment (*Equinox Fitness*) which expired on January 11, 2010. C6-7 (MID) zoning district.

PREMISES AFFECTED – 1633 Broadway, 215 West 50th Street; 210 West 51st Street, west side of Broadway between West 50th and West 51st Streets, Block 1022, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term of a previously granted special permit for a physical culture establishment (PCE), which expired on

January 11, 2010; and

WHEREAS, a public hearing was held on this application on April 13, 2010, after due notice by publication in *The City Record*, and then to decision on April 27, 2010; and

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

WHEREAS, Community Board 5, Manhattan, states that it has no objection to this application; and

WHEREAS, the PCE is located on the west side of Broadway, between 50th Street and 51st Street, in a C6-7 zoning district within the Special Midtown District; and

WHEREAS, the site is occupied by a 48-story commercial building; and

WHEREAS, the PCE use is located in the concourse level and first cellar level, and occupies a total of 24,696 sq. ft. of floor space; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 11, 2000 when, under the subject calendar number, the Board granted a special permit for a PCE in the subject building for a term of ten years, to expire on January 11, 2010; and

WHEREAS, the applicant now seeks to extend the term of the special permit for ten years; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on January 11, 2000, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from January 11, 2010, to expire on January 11, 2020, *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received January 12, 2010”- (3) sheets; and *on further condition*:

THAT the term of this grant shall expire on January 11, 2020;

THAT a certificate of occupancy shall be obtained by April 27, 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;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 120209700)

Adopted by the Board of Standards and Appeals, April 27, 2010.

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196-08-BZ

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

SUBJECT – Application October 13, 2009 – Amendment of a previous grant for public parking garage; amendment would enclose rooftop parking. 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 Candreva.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an amendment to a previously-approved public parking garage to permit a one-story enlargement of the existing building to enclose the rooftop parking area; and

WHEREAS, a public hearing was held on this application on December 15, 2009, after due notice by publication in *The City Record*, with continued hearings on January 26, 2010, March 16, 2010, and April 13, 2010, and then to decision on April 27, 2010; and

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

WHEREAS, Community Board 4, Manhattan, recommends approval of this application with the following conditions: (1) that all unnecessary curb cuts be removed; (2) that street trees be planted in accordance with ZR § 26-41; (3) that the height of the building not exceed the proposed 35’-4’’; (4) that transient parking be accepted only from the Tenth Avenue entrance; (5) that the applicant shall not seek to increase the number of parking spaces currently in use; and (6) that the applicant submit a timetable to the Community Board stating when it anticipates to begin and complete each phase of the proposed construction; and

WHEREAS, the premises is located on the northeast corner of the intersection at Tenth Avenue and West 53rd Street, in a C6-2 zoning district within the Special Clinton District; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 8, 1949 when, under BSA Cal. No. 346-47-BZ, the Board granted a variance to permit the site to be occupied for a storage garage; and

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

WHEREAS, most recently, on January 13, 2009, the Board reinstated the prior variance for the operation of a public parking garage (Use Group 8) for a term of ten years, to expire on January 13, 2019; and

WHEREAS, the applicant now seeks an amendment to permit a one-story enlargement of the building; and

WHEREAS, pursuant to ZR § 11-412, the Board may permit an alteration to a site subject to a previously granted variance; and

WHEREAS, the applicant states that there will be no increase in the number of parking spaces located at the site, as the purpose of the enlargement is solely to enclose the existing rooftop parking area; and

WHEREAS, the applicant proposes to enlarge the total floor space of the building from 15,063 sq. ft. to 20,355 sq. ft.; and

WHEREAS, the Board notes that this enlargement is within the parameters set forth at ZR § 11-412; and

WHEREAS, at hearing, the Board questioned whether the original plans for the proposed enlargement, which reflected a full build out of the second floor, complied with lot coverage provisions, which permit a maximum lot coverage of 70 percent on the second floor; and

WHEREAS, in response, the applicant submitted revised plans which reflected that the second floor will be setback in order to comply with the maximum lot coverage of 70 percent; and

WHEREAS, however, the applicant states that it seeks approval from DOB as to whether the setback can be reduced if portions of the garage are exempt from floor area calculations; and

WHEREAS, the Board recognizes that the applicant may seek to amend the second floor design if DOB determines that an alternate design maintains compliance with lot coverage requirements and would consider a request for an amendment to the plans if otherwise appropriate; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant agreed to: (1) eliminate the curb cut and garage exit located at the corner of West 53rd Street; (2) plant street trees in accordance with ZR § 26-41; (3) not exceed a height of 35’-4’’; (4) limit access to transient parking to the Tenth Avenue entrance; (5) not exceed the existing number of parking spaces; and (6) provide the Community Board with a timetable for the proposed construction; and

WHEREAS, based upon the above, the Board finds that the requested amendments to the approved plans are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens, and amends the resolution, as adopted on January 13, 2009, so that as amended this portion of the resolution shall read: “to permit a one-story enlargement of the existing building to enclose the rooftop parking spaces; *on condition* that the use shall substantially conform to drawings as filed with this application, marked “Received March 2, 2010”- (2) sheets and “March 18, 2010”-(4) sheets; and *on further condition*:

THAT the site shall be maintained free of debris and graffiti;

THAT the capacity of the garage shall be limited to 81 spaces and an additional ten reservoir spaces;

THAT the curb cut and garage exit at the corner of

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West 53rd Street shall be eliminated as reflected on the BSA-approved plans;

THAT street trees shall be planted in accordance with the BSA-approved plans;

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

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

THAT DOB shall review all signage for compliance with C1 zoning district 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; 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.” (DOB Application No. 201084405)

Adopted by the Board of Standards and Appeals, April 27, 2010.

803-61-BZ

APPLICANT – Eric Palatnik, P.C., for Phillip and Martin Blessinger, owner; BP Products North America, Incorporated, lessee.

SUBJECT – Application April 27, 2010 – Extension of Term for the continued use of a Gasoline Service Station (*British Petroleum*) which expires on November 14, 2011; Waiver of the Rules. C2-1/R3-2 zoning districts.

PREMISES AFFECTED – 1416 Hylan Boulevard, corner of Hylan Boulevard, corner of Hylan Boulevard and Reid Avenue, Block 3350, Lot 30, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to May 25, 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 – Extension of term of a variance (§72-21) for construction of a new residential building; amendment to add increase the number of dwelling units, FAR, height and 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 –

For Applicant: Jay Goldstein.

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 May 18, 2010, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

157-07-BZY

APPLICANT – Howard Zipser, Akerman Senterfitt, LLP, for 55 Eckford Street Brooklyn LLC, owner.

SUBJECT – Application November 23, 2010 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior R6/M1-1 zoning district. M1-2 /R6A, M1-2 R6B, MX8 zoning district.

PREMISES AFFECTED – 55 Eckford Street, west side of Eckford Street, between Driggs Avenue and Engert Avenue, Block 2698, Lot 32, Borough of Brooklyn.

COMMUNITY BOARD #1BK

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 and Commissioner Montanez .4

Negative:.....0

Recused: Commissioner Hinkson1

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 currently under construction at the subject site; and

WHEREAS, a public hearing was held on this application on March 23, 2010, after due notice by publication in *The City Record*, and then to decision on April 27, 2010; and

WHEREAS, New York State Assembly Member Joseph R. Lentol provided testimony in support of this application; and

WHEREAS, the subject premises is located on the west side of Eckford Street, between Driggs Avenue and Engert Avenue; and

WHEREAS, the premises is currently located partially within an M1-2/R6A (MX-8) zoning district and partially within an M1-2/R6B (MX-8) zoning district; and

WHEREAS, the development complies with the prior R6 (M1-1) zoning district regulations; and

WHEREAS, however, on May 11, 2005 (hereinafter, the “Enactment Date”), the City Council voted to adopt the Greenpoint Williamsburg Rezoning; and

WHEREAS, on March 22, 2004, New Building Permit No. 301756319-01-NB (hereinafter, the “New Building Permit”) was issued by the Department of Buildings (“DOB”) permitting construction of the Building; and

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

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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, on October 23, 2007 the Board granted a two-year extension of time to complete construction and obtain a certificate of occupancy for the proposed development, pursuant to ZR § 11-332; 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 ZR, as a "minor development"; and

WHEREAS, for "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: "In 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, the applicant noted that ZR § 11-332 requires only that there be substantial completion and substantial expenditures subsequent to the issuance of building permits and that the Board has measured this completion by looking at time spent, complexity of work completed, amount of work completed, and expenditures; and

WHEREAS, as a threshold issue, the Board must determine that proper permits were issued, since ZR § 11-31(a) requires: "For 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 March 24, 2010, 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 original 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, accordingly, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant; 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, as set forth in the prior case, the applicant states that work on the proposed development subsequent to the issuance of the permit includes 100 percent of the foundation, the steel frame for six of the 12 proposed floors, and concrete slab floors for floors one through six; and

WHEREAS, in support of this statement the applicant has submitted the following: photographs of the site showing the steel frame and slab floors for floors one through six; a statement from the project developer describing the completed work; copies of concrete pour tickets; financial records; and copies of cancelled checks; 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 permits; and

WHEREAS, as to costs, the applicant represents that the total expenditures paid for the development are \$1,379,767, or 17 percent, of the \$7,871,450 cost to complete; and

WHEREAS, as noted, the applicant has submitted financial records and copies of cancelled checks; and

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

WHEREAS, the applicant states that delays in construction resulted from financial hardship, such that no

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construction has been undertaken at the site since the two-year extension of time was granted on October 23, 2007, and it is therefore relying on the work performed and expenditures made at the time of the initial vesting; and

WHEREAS, the applicant represents that the financing issues have now been resolved, and it anticipates that the proposed construction will be completed within 18 months; 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 initial 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 permits, 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.

Therefore it is Resolved that this application made pursuant to ZR § 11-332 to renew Building Permit No. 301756319-01 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 April 27, 2012.

Adopted by the Board of Standards and Appeals, April 27, 2010.

315-08-A

APPLICANT – Stuart A. Klein, Esq., for Bayrock/Sapir Organization, LLC., owner.

SUBJECT – Application December 23, 2008 – An appeal seeking the revocation of permits for a condominium hotel on the basis that the approved plans allow for exceeding of maximum permitted floor area. M1-6 zoning.

PREMISES AFFECTED – 246 Spring Street, between Varick Street and Hudson Street, block 491, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jay Goldstein.

ACTION OF THE BOARD – Laid over to June 8, 2010, at 10 A.M., for adjourned hearing.

287-09-BZY & 288-09-BZY

APPLICANT – Sheldon Lobel, P.C., for Hooshang Vaghari and Farhad Nobari, owners.

SUBJECT – Application October 9, 2009 – Extension of time (§11-332) to complete construction of a major development commenced under the prior R6 zoning. R5 zoning district.

PREMISES AFFECTED – 87-85 & 87-87 144th Street, east side of 144th Street between Hillside Avenue and 85th Avenue, Block 9689, Lot 6 & 7, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to May 11, 2010, at 10 A.M., for decision, hearing closed.

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 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: Eric Palatnik.

ACTION OF THE BOARD – Laid over to May 11, 2010, at 10 A.M., for continued hearing.

10-10-A

APPLICANT – Law Office of Fredrick A. Becker, for Joseph Durzieh, owner.

SUBJECT – Application January 25, 2010 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior zoning district. R6 zoning district.

PREMISES AFFECTED – 1882 East 12th Street, west side, of East 12th Street, 75' north of Avenue S, Block 6817, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman, Steve Wygoda and Paulette Durzieh.

For Opposition: Jay Goldstein, Betty Travitsky, Bella Center, Ed Saworski, Kathleen Jaworski and Stuart A. Klein.

ACTION OF THE BOARD – Laid over to June 8, 2010, at 10 A.M., for continued hearing.

23-10-A thru 26-10-A

APPLICANT – Richard Bowers of Akerman Senterfitt, LLP, for Mia & 223rd Street Management Corp., owner.

SUBJECT – Application February 23, 2010 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior zoning district regulations. R1-2 zoning district.

PREMISES AFFECTED – 39-39 223rd Street and 223-01/15/19 Mia Drive, between 223rd Street and Cross Island

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Parkway, Block 6343, Lots 154-157, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Calvin Wong.

For Opposition: Stuart A. Klein and Patricia Marin.

ACTION OF THE BOARD – Laid over to June 8, 2010, at 10 A.M., for continued hearing.

57-10-A

APPLICANT – Eric Palatnik, P.C., for 517 53rd Street, Inc., owner.

SUBJECT – Application April 19, 2010 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior C4-3 zoning district. R6B zoning district.

PREMISES AFFECTED – 517 53rd Street, between Fifth Avenue and Sixth Avenue, Block 808, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to May 11, 2010, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING TUESDAY AFTERNOON, APRIL 27, 2010 1:30 P.M.

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

ZONING CALENDAR

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 – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated October 27, 2009, acting on Department of Buildings Application No. 320079641, reads:

1. Proposed plans are contrary to ZR 23-141(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%.
2. Proposed plans are contrary to ZR 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the required 150%.
3. Plans are contrary to ZR 23-461(a) in that the existing minimum side yard is less than the required minimum 5'-0".
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30'-0";" and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio, side yards and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on January 26, 2010 after due notice by publication in *The City Record*, with continued hearings on March 2, 2010 and March 23, 2010, and then to decision on April 27, 2010; and

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

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

WHEREAS, the subject site is located on the west side of East 22nd Street, between Avenue J and Avenue K, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft., and is occupied by a single-family home with a floor area of 3,136 sq. ft. (0.63 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 3,136 sq. ft. (0.63 FAR) to 5,021 sq. ft. (1.0 FAR); the maximum permitted floor area is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of approximately 60 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain the existing side yard with a width of 4'-11" along the northern lot line (a minimum width of 5'-0" is required for each side yard); and

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

WHEREAS, at hearing, the Board questioned which portions of the existing home are being retained; and

WHEREAS, in response, the applicant submitted revised plans reflecting that portions of the floors and exterior walls of the existing home are being retained; and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141,

23-461, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received April 12, 2010"-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 5,021 sq. ft. (1.0 FAR); an open space ratio of 60 percent; a side yard with a minimum width of 12'-3" along the southern lot line; a side yard with a minimum width of 4'-11" along the northern lot line; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

THAT DOB shall review all proposed balconies and porches for compliance;

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

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

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

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

Adopted by the Board of Standards and Appeals, April 27, 2010.

330-09-BZ

APPLICANT – Eric Palatnik, P.C., for Zhenia Levinsky, owner.

SUBJECT – Application December 18, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to open space, lot coverage and floor area (§23-141) and rear yard (§23-47). R3-1 zoning district. PREMISES AFFECTED – 230 Amherst Street, between Oriental Boulevard and Esplanade, Block 8738, Lot 66, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 16, 2009, acting on

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Department of Buildings Application No. 310243616, reads in pertinent part:

- “1. Proposed floor area ratio contrary to ZR 23-141(a).
2. Proposed open space is contrary to ZR 23-141(a).
3. Proposed lot coverage is contrary to ZR 23-141(a).
4. Proposed rear yard is contrary to ZR 23-47;”
and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-1 zoning district, the proposed enlargement of a two-family home and its conversion into a single-family home, which does not comply with the zoning requirements for floor area ratio (FAR), open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on February 23, 2010 after due notice by publication in *The City Record*, with a continued hearing on April 13, 2010, and then to decision on April 27, 2010; and

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

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

WHEREAS, the subject site is located on the west side of Amherst Street, between Oriental Boulevard and Esplanade, within an R3-1 zoning district; and

WHEREAS, the subject site has a total lot area of 4,160 sq. ft., and is occupied by a two-family home with a floor area of approximately 1,865 sq. ft. (0.45 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from approximately 1,865 sq. ft. (0.45 FAR) to approximately 4,014 sq. ft. (0.96 FAR); the maximum floor area permitted is 2,080 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space of 61 percent (65 percent is the minimum required); and

WHEREAS, the applicant proposes to provide a lot coverage of 39 percent (35 percent is the maximum permitted); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 27’-2” (a minimum rear yard of 30’-0” is required); and

WHEREAS, at hearing, the Board requested that the applicant clarify the discrepancy between the lot dimensions of 40’-0” by 100’-0” reflected in the tax map on record at the Department of Finance (“DOF”) and the lot dimensions of 40’-0” by 104’-0” claimed by the applicant; and

WHEREAS, in response, the applicant submitted a revised DOF tax map reflecting that the dimensions of the subject lot are 40’-0” by 104’-0”; and

WHEREAS, based upon its review of the record, the

Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

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

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

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

Therefore it is resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622 and 73-03, to permit, within an R3-1 zoning district, the proposed enlargement of a two-family home and its conversion into a single-family home, which does not comply with the zoning requirements for FAR, open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received March 25, 2010”-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,014 sq. ft. (0.96 FAR); an open space of 61 percent; a lot coverage of 39 percent; a side yard with a width of 6’-9” along the northern lot line; a side yard with a width of 5’-0” along the southern lot line; and a rear yard with a minimum depth of 27’-2”, as illustrated on the BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, April 27, 2010.

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18-10-BZ

CEQR #10-BSA-044M

APPLICANT – Sheldon Lobel, P.C., for Fifty East Forty-Second Company, LLC, owner; East 42nd Street Fitness, LLC d/b/a Lucille Roberts, lessee.

SUBJECT – Application February 2, 2010 – Special Permit (§73-36) to allow a physical culture establishment (*Lucille Roberts*) in the cellar and a portion of the first floor in an existing 26-story building. C5-3 zoning district.

PREMISES AFFECTED – 50 East 42nd Street, Southeast corner of Madison Avenue, Block 1276, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #5M

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 Montanez

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Superintendent, dated March 15, 2010, acting on Department of Buildings Application No. 120222936, reads in pertinent part:

“Proposed change of use on first floor and cellar to a physical culture establishment is not permitted as of right in C5-3 zoning district and is contrary to ZR Section 32-10... referred to the BSA for special permit as per ZR Section 73-36;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district, a physical culture establishment (PCE) in the cellar and first floor of a 26-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 23, 2010 after due notice by publication in *The City Record*, with a continued hearing on April 13, 2010, and then to decision on April 27, 2010; and

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

WHEREAS, Community Board 5, Manhattan, states that it has no objection to this application; and

WHEREAS, the subject site is located on the south east corner of East 42nd Street and Madison Avenue, within a C5-3 zoning district; and

WHEREAS, the site is occupied by a 26-story commercial building; and

WHEREAS, the PCE will occupy 227 sq. ft. of floor area on the first floor and 11,258 sq. ft. of additional floor space in the cellar; and

WHEREAS, the PCE will be operated as Lucille Roberts; and

WHEREAS, the proposed hours of operation are 7:00

a.m. to 9:00 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, at hearing, the Board requested that the applicant document that the proposed 84 sq. ft. of signage is permitted, or come into compliance with the C5 district regulations; and

WHEREAS, in response, the applicant agreed to reduce the signage to 42 sq. ft., which is permitted as-of-right, and submitted an affidavit from the owner and a letter from the sign contractor reflecting that the excess signage will be removed; 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 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.10BSA044M, dated March 11, 2010; 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

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Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district, a physical culture establishment in the cellar and first floor of a 26-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received March 12, 2010”-(1) sheet and “Received April 20, 2010”-(1) sheet ; and *on further condition*:

THAT the term of this grant shall expire on April 27, 2020;

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

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

THAT all signage shall comply with C5 district regulations;

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, April 27, 2010.

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 June 8, 2010, at 1:30 P.M., for deferred decision.

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 Friedman.

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 May 18, 2010, at 1:30 P.M., for decision, hearing closed.

302-08-BZ

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

SUBJECT – Application December 10, 2008 – Variance (§72-21) to permit an existing semi-detached residential building, contrary to side yard regulations (§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 W. Rothkrug.

ACTION OF THE BOARD – Laid over to June 22, 2010, at 1:30 P.M., for continued hearing.

194-09-BZ

APPLICANT – Sheldon Lobel, P.C., for Dabes Realty Company, Incorporated, owner.

SUBJECT – Application June 17, 2009 – Variance to allow the construction of a four story mixed use building contrary to floor area (§23-141), open space (§23-141), lot coverage (§23-141), front yard (§23-45), height (§23-631), open space used for parking (§25-64) and parking requirements (§25-23); and to allow for the enlargement of an existing commercial use contrary to §22-10. R3-2 zoning district.

PREMISES AFFECTED – 2113 Utica Avenue, 2095-211 Utica Avenue, East side of Utica Avenue between Avenue M and N, Block 7875, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD # 18BK

APPEARANCES –

For Applicant: Josh Rhinesmith.

For Opposition: Paul Curiale, Patricia Vasquez, John

MINUTES

Vasquez, Frances Dasilva, Jaime Lopez, Yvette Lopez, Marie Michel Hosein, Stella Gillett and Ometa Holloway.

ACTION OF THE BOARD – Laid over to June 22, 2010, at 1:30 P.M., for continued hearing.

234-09-BZ

APPLICANT – Sheldon Lobel, P.C., for Zenida Radoncic, owner.

SUBJECT – Application July 24, 2009 – Variance (§72-21) for the construction of a detached two-family home contrary to side yard regulations (§23-48). R-5 zoning district.

PREMISES AFFECTED – 25-71 44th Street, situated on the east side of 44th Street approximately 290 feet north of 28th Avenue. Block 715, Lot 16. Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Josh Rhinesmith.

ACTION OF THE BOARD – Laid over to May 18, 2010, at 1:30 P.M., for continued hearing.

270-09-BZ

APPLICANT – Richard Lobel, for Jack Kameo, owner.

SUBJECT – Application September 21, 2009 – Variance (§72-21) for the construction of a single family home on a vacant corner lot, contrary to floor area (§23-141), side yards (§23-461) and front yard (§23-47). R4-1 zoning district.

PREMISES AFFECTED – 1910 Homecrest Avenue, Bound by East 12th Street and Homecrest Avenue, eastside of Avenue S, Block 7291, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Josh Rhinesmith.

ACTION OF THE BOARD – Laid over to May 11, 2010, at 1:30 P.M., for adjourned hearing.

304-09-BZ

APPLICANT – Stuart A. Klein, Esq. for Junius-Glenmore Development, LLC, owner; Women in Need, Inc., lessee.

SUBJECT – Application November 4, 2009 – Variance (§72-21) to allow the erection of a ten-story, mixed-use community facility and commercial building, contrary to floor area (§42-00, 43-12 and 43-122), height and sky exposure plane (§43-43), and parking (§44-21). M1-4 zoning district.

PREMISES AFFECTED – 75-121 Junius Street, Junius Street, bounded by Glenmore Avenue and Liberty Avenue, Block 3696, Lot 1, 10, Borough of Brooklyn.

COMMUNITY BOARD #16BK

APPEARANCES –

For Applicant: Jay Goldstein, Bonnie Stone, Hiram Rothkrug.

For Opposition: Viola Greene-Walker, Bill Wilkins, Sarah Crean, Gene Moore, Barney L. Kirton and Michael Bellovin.

ACTION OF THE BOARD – Laid over to June 15, 2010, at 1:30 P.M., for continued hearing.

307-09-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Zahava Hurwitz and Steven Hurwitz, owner.

SUBJECT – Application November 9, 2009 – Special Permit (§73-622) for the enlargement of existing single family home, contrary to open space and floor area (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1358-1360 East 28th Street, West side of East 28th Street between Avenue M and Avenue N. Block 7663, Lot 73 & 75, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to May 11, 2010, at 1:30 P.M., for decision, hearing closed.

9-10-BZ

APPLICANT – Eric Palatnik, P.C., for Ching Kuo Chiang, owner.

SUBJECT – Application January 22, 2010 – Variance (§72-21) to allow a restaurant use in an existing building, contrary to §22-00. R1-2 zoning district.

PREMISES AFFECTED – 231-10 Northern Boulevard, Northwest corner of 232nd Street, Block 8164, Lot 30, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eric Palatnik and Flenry Arlin Salmon.

For Opposition: David Brody and Eliott Socci.

ACTION OF THE BOARD – Laid over to May 25, 2010, at 1:30 P.M., for continued hearing.

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

APPEARANCES –

For Applicant: Eric Palatnik.

MINUTES

ACTION OF THE BOARD – Laid over to June 8, 2010, at 1:30 P.M., for continued hearing.

14-10-BZ

APPLICANT – Friedman & Gotbaum, LLP, for Cooper Square Associates (LP), owners.

SUBJECT – Application January 29, 2010 – Special Permit (§73-19) to allow a Use Group 3 school (*Grace Church High School*). M1-5B zoning district.

PREMISES AFFECTED – 38-50 Cooper Square, west side of Cooper Square, 326'-9" south of Astor Place, Block 544, p/o 38, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Shelly Friedman.

ACTION OF THE BOARD – Laid over to May 18, 2010, at 1:30 P.M., for continued hearing.

34-10-BZ

APPLICANT – James Chin & Associates, LLC, for Harry Tran, owner; Shu Ying Zhao, lessee.

SUBJECT – Application March 18, 2010 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*York Spa Beauty Care*) in the cellar and first floor of an existing five-story building. M1-5B zoning district.

PREMISES AFFECTED – 429 Broome Street, south side of Broome Street, from the corner formed by Broome and Crosby Street, Block 473, Lot 18, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Mindy Chin and Theresa Tlour.

For Opposition: Caroline Harris.

ACTION OF THE BOARD – Laid over to June 8, 2010, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.