
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:
40 Rector Street, 9th Floor, New York, N.Y. 10006.

Volume 95, No. 6

February 10, 2010

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

CALENDAR

FEBRUARY 23, 2010, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 23, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

834-60-BZ

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

SUBJECT – Application October 20, 2009 – Extension of Term for the continued use of a Gasoline Service Station (Gulf) with minor auto repairs which expired on March 7, 2006; Extension of Time to obtain a Certificate of Occupancy which expired on March 2, 2000; an Amendment to legalize an accessory convenience store and Waiver of the Rules. C2-4/R-7A, R-5B zoning district.

PREMISES AFFECTED – 140 Vanderbilt Avenue, northwest corner of Myrtle Avenue and Vanderbilt Avenue, Block 2046, Lot 84, Borough of Brooklyn.

COMMUNITY BOARD #2BK

280-01-BZ

APPLICANT – Cozen O'Connor, Esqs., for Perl binder Holdings, LLC, owners.

SUBJECT – Application February 3, 2010 – Extension of Time to Complete Construction and Extension of Time to obtain a Certificate of Occupancy of a previously granted Variance (§72-21) for the construction of a mixed-use building which expires on May 7, 2010. C1-9 zoning district.

PREMISES AFFECTED – 663-673 Second Avenue, west side of Second Avenue from 36th Street to 37th Street, Block 917, Lot 21, 24, Borough of Manhattan.

COMMUNITY BOARD #6M

238-08-BZ

APPLICANT – NYC Board of Standards and Appeals

OWNER: Chim Yidel Lafkowitz

SUBJECT – Application for dismissal for lack of prosecution.

PREMISES AFFECTED – 876 Kent Avenue, west side of Kent Avenue, approximately 91' north of the intersection of Myrtle Avenue, Block 1897, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEALS CALENDAR

64-07-A

APPLICANT – Stuart A. Klein, for Sidney Frankel, owner.

SUBJECT – Application September 14, 2009 – Appeal for a common law vested right to continue construction commenced under the prior R6 zoning district. R4-1 Zoning District

PREMISES AFFECTED – 1704 Avenue N, southeast corner lot at the intersection of East 17th Street and Avenue N, Block 6755, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

12-10-A

APPLICANT – Slater & Beckerman, LLP for Lex Rex, LLC, owner; Atlantic Commons Cornstone L.P., lessee.

SUBJECT – Application January 27, 2010 – Proposed construction of a 5 story, 18 unit affordable housing building within the 30 foot required setback of Eastern Parkway Extension, contrary to Administrative Code Section 18-112. R6 zoning district.

PREMISES AFFECTED – 1734 Saint John's Place, West side of Howard Avenue, south side of St. John's Place and north side of Eastern Parkway Extension. Block 1473, Lots 34, 35, 36, 37, Borough of Brooklyn.

COMMUNITY BOARD #16BK

FEBRUARY 23, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 23, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

297-09-BZ

APPLICANT – Marvin Mitzner, Esq., for 180 Ludlow Development LLC, owner.

SUBJECT – Application October 20, 2009 – Variance (§72-21) to allow for the conversion of a recently constructed commercial building for residential use, contrary to rear yard regulations. (ZR 23-47) C4-4A zoning district.

PREMISES AFFECTED – 180 Ludlow Street, east side of Ludlow Street approximately 125' south of East Houston Street, Block 412, Lot 48, 49, 50, Borough of Manhattan.

COMMUNITY BOARD #3M

CALENDAR

328-09-BZ

APPLICANT – Bryan Cave LLP, for The Abraham Joshua Heschel School, owner.

SUBJECT – Application December 14, 2009 – Variance (§ZR 72-21) to allow for the construction of a community facility (*The Abraham Joshua Heschel School*) contrary to height and setback, and rear yard requirements. (ZR §33-432, §23-634, §33-432) C6-2/C4-7 zoning districts.

PREMISES AFFECTED – 28-34 West End Avenue, 246-252 West 61st Street, West End Avenue and West 61st Street, Block 1152, Lot 58, 61, Borough of Manhattan.

COMMUNITY BOARD #7M

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

332-09-BZ

APPLICANT – Moshe M. Friedman, for Mordechai Treff, owner.

SUBJECT – Application December 22, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141(a)); less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 1462 East 27th Street, west side 320' north of intersection of East 27th Street and Avenue O, Block 7680, Lot 80, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

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

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

SPECIAL ORDER CALENDAR

582-83-BZ

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

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

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

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Carole Slater.

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 amendment of a previously granted variance permitting the conversion of a six-story building from community facility use into an office building with retail use on the first floor, which will: (1) permit Use Group 6 retail use in the cellar; (2) eliminate the term of 20 years which expired on January 10, 2004; and

WHEREAS, a public hearing was held on this application on January 26, 2010 after due notice by publication in *The City Record*, and then to decision on February 2, 2010; and

WHEREAS, Community Board 6, Manhattan, stated that it has no objection to this application, but recommends a five-year term; and

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

WHEREAS, the site is located on the north side of East 58th Street, between Second Avenue and Third Avenue, within an R8B zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 10, 1984 when, under the subject

calendar number, the Board granted a variance to permit the conversion of a six-story building from community facility use into a Use Group 6 office building with retail use on the first floor, to expire on January 10, 2004; and

WHEREAS, the applicant now requests that retail use be permitted in the cellar; and

WHEREAS, the applicant states that permitting retail use in the cellar would enable the building’s retail tenants to utilize the cellar as a showroom providing them with additional space for display and to locate their offices in a less prominent location; and

WHEREAS, the applicant states that, since the time of the original grant, the use of the cellar for storage and as a showroom exclusively for the ground floor tenant has been continuous; and

WHEREAS, the applicant submitted evidence indicating that the cellars and/or basements of ten buildings on East 58th Street contain retail uses; and

WHEREAS, the applicant represents that, given the preponderance of retail uses in the cellars of surrounding buildings, the use of the subject building’s cellar for retail use which is compatible with the existing uses in the neighborhood; and

WHEREAS, the applicant also seeks to eliminate the term of the grant; and

WHEREAS, the applicant represents that there have been no changes to the building since the grant of the variance and the same hardships that prevented the building from being used for a conforming use at that time still exist, including a rear yard with a depth of ten feet, interior layout constraints, and insufficient access to legal light and air; and

WHEREAS, the applicant states that the site is located at the center of the City’s interior design and furnishings industry and that East 58th Street, between Second and Third Avenue, has been renamed “Designer Way” by the City; and

WHEREAS, the applicant represents that the surrounding area consists of entirely commercial buildings or buildings with cellar and ground floor retail uses, and that the area has become even more commercial in nature since the time of the original grant; and

WHEREAS, the applicant submitted a 400-ft. radius diagram reflecting that Use Group 6 uses are located in every building on both the north and south side of East 58th Street, either in the cellar and ground floor or within the entire building; and

WHEREAS, accordingly, the Board finds the requested elimination of the term appropriate, given the inherent hardships on the site and the preponderance of commercial uses in the surrounding area; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to permit retail use in the cellar and to eliminate the term 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, as adopted on January 10, 1984, so that as amended this portion of the resolution shall read: “to eliminate the term and to permit Use Group 6 retail use in the

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cellar; *on condition* that any and all work shall substantially conform to drawings filed with this application marked "Received December 23, 2009"- (4) sheets; and *on further condition*:

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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. 120187136)

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

75-95-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for The Ruprert Yorkville Towers Condominium, owner; TSI East 91 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 January 28, 2006 for the operation of a Physical Culture Establishment (*New York Sports Club*); Waiver of the Rules. C2-8 zoning district.

PREMISES AFFECTED – 1635 Third Avenue, Easterly side of Third Avenue between East 91st Street and East 92nd Street. Block 1537, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for waiver of the Rules of Practice and Procedure, a reopening, an extension of term of a previously granted special permit for a physical culture establishment (PCE), which expired on January 28, 2006, and a waiver of the condition that a certificate of occupancy be obtained within one year of the grant; and

WHEREAS, a public hearing was held on this application on December 8, 2010, after due notice by publication in *The City Record*, with a continued hearing on January 12, 2010, and then to decision on February 2, 2010; and

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

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

WHEREAS, the PCE is located on the east side of Third Avenue, between East 91st Street and East 92nd Street, within a C2-8 zoning district; and

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

WHEREAS, the PCE use occupies 31,220 sq. ft. of floor area at the basement and first floor, with an additional 680 sq. ft. of floor space in the cellar; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 28, 1997 when, under the subject calendar number, the Board granted a special permit for a PCE in the subject building for a term of nine years, to expire on January 28, 2006; a condition of the grant was that a certificate of occupancy be obtained by January 28, 1998; and

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

WHEREAS, the applicant further seeks a waiver of the condition that a certificate of occupancy be obtained within one year of the grant; and

WHEREAS, the applicant represents that a new certificate of occupancy was not obtained within one year of the original grant because there are open Department of Buildings ("DOB") applications within the building, unrelated to the special permit use, which preclude the building as a whole from being able to obtain a certificate of occupancy; and

WHEREAS, given the uncertainty as to if and when all open DOB applications will be resolved, the applicant seeks to amend the prior resolution to remove the condition that a new certificate of occupancy be obtained, or in the alternative, requests a minimum of two years to obtain a certificate of occupancy; and

WHEREAS, the applicant states that, given the outstanding applications in the building, it is not feasible to obtain a final certificate of occupancy for the building within any reasonable amount of time; and

WHEREAS, the applicant further seeks the approval of minor interior modifications to the layout of the PCE; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term and modifications to the BSA-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 28, 1997, so that as amended this portion of the resolution shall read: "to extend the term for a period of ten years from January 28, 2006, to expire on January 28, 2016, *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and that all work shall substantially conform to drawings filed with this application and marked "Received October 8, 2009"- (3) sheets and "December 29, 2009"-(1) sheet; and *on further condition*:

THAT the term of this grant shall expire on January 28, 2016;

THAT the above condition shall appear on the certificate of occupancy;

THAT a new certificate of occupancy shall be obtained by February 2, 2012;

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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. 120139082)

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

5-96-BZ

APPLICANT – Sheldon Lobel, P.C. for Saint John's Place, LLC c/o Ulltra Parking Systems Incorporated, owner; Park Right Corporation, lessee.

SUBJECT – Application January 20, 2009 – Extension of Term (§11-411) to permit the operation a one-story public parking garage for no more than 150 cars (UG 8), which expired on March 18, 2007; Amendment to change the parking layout; and an Extension of Time to obtain a certificate of occupancy, which expired on March 18, 1998. R7-1 zoning district.

PREMISES AFFECTED – 564/92 St. John's Place, South side of Saint John's Place approximately 334' west of Classon Avenue, Block 1178, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Josh Rinesmith

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for the continued use of a one-story parking garage, an extension of time to obtain a certificate of occupancy, and an amendment to permit certain modifications to the site; and

WHEREAS, a public hearing was held on this application on August 18, 2009, after due notice by publication in *The City Record*, with continued hearings on October 6, 2009, November 24, 2009 and Jan, and then to decision on February 2, 2010; and

WHEREAS, Community Board 8, Brooklyn, recommends approval of this application; 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, the premises is located on the south side of

St. John's Place, between Classon Avenue and Franklin Avenue, within an R7-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 22, 1919 when, under BSA Cal. No. 263-19-BZ, the Board granted a variance to permit the construction of a one-story building to be used for the storage of more than five motor vehicles; and

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

WHEREAS, on January 18, 1966, under BSA Cal. No. 327-63-BZ, the Board granted a change in use to permit the assembly of mirrors into frames, the storage and cutting of sheet glass, the manufacturing of plastic and wood frames and novelties, with an off-street loading berth; and

WHEREAS, most recently, on March 18, 1997, under the subject calendar number, the Board reinstated the expired variance and legalized a change in use to a public parking garage for not more than 150 cars (Use Group 8), to expire on March 18, 2007; and

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

WHEREAS, the applicant also seeks an amendment to the previously approved plans to legalize the modification of the parking layout and the installation of 75 two-level automobile stacking devices; and

WHEREAS, the applicant states that the previously approved parking layout did not provide sufficient room for vehicle circulation due to the dense layout of the garage and the lack of aisles between the spaces; and

WHEREAS, the applicant represents that the installation of the proposed stacking devices will allow for better vehicle circulation; and

WHEREAS, the applicant states that it is not seeking to increase the number of vehicles occupying the garage beyond the 150 previously permitted; and

WHEREAS, the Board finds the amendment to the parking layout appropriate, subject to Department of Buildings review of the proposed automobile stacking devices for compliance with Materials and Equipment Acceptance Division (“MEA”) requirements; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term; and

WHEREAS, pursuant to ZR § 11-412, the Board may grant a request for changes to the site; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term, extension of time to obtain a certificate of occupancy, and the proposed amendments 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 March 18, 1997, so that as amended this portion of the resolution shall read: “to extend the term for ten years from March 18, 2007, to expire on March 18, 2017, to grant an extension of time to obtain a

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certificate of occupancy to February 2, 2011, and to permit the noted site modifications *on condition* that all work and the site layout shall substantially conform to drawings as filed with this application, marked “Received January 20, 2009”-(1) sheet, “June 24, 2009”-(1) sheet and “February 1, 2010”- (1) sheet; and *on further condition*:

THAT the term of this grant shall expire on March 18, 2017;

THAT DOB shall review the automobile stacking devices for compliance with MEA requirements;

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB App. No. 310233841)

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

163-99-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 503 Broadway LLC, owner; TSI Soho LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application September 16, 2009 – Extension of Term for a special permit (§73-36) which will expire on June 28, 2010 for the operation of a Physical Culture Establishment (*New York Sports Club*); Waiver of the Rules.

M1-5B zoning district.

PREMISES AFFECTED – 503 Broadway, westerly side of Broadway between Broome Street and Spring Street, Block 484, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term of a previously granted special permit for a physical culture establishment (PCE), which expires on June 28, 2010; and

WHEREAS, a public hearing was held on this

application on January 12, 2010, after due notice by publication in *The City Record*, and then to decision on February 2, 2010; and

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

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the PCE is located on the west side of Broadway, between Broome Street and Spring Street, in an M1-5B zoning district within the SoHo Cast Iron Historic District; and

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

WHEREAS, the PCE use is located on the third floor, with elevator access from the first floor, and occupies a total floor area of 24,657 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 28, 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 June 28, 2010; and

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

WHEREAS, the Board notes that the Landmarks Preservation Commission issued a Certificate of Appropriateness for the third-floor sign at the subject site on July 27, 1999, and it remains unchanged; 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 June 28, 2000, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from June 28, 2010, to expire on June 28, 2020, *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and that all work shall substantially conform to drawings filed with this application and marked “Received September 16, 2009”-(6) sheets; and *on further condition*:

THAT the term of this grant shall expire on June 28, 2020;

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. 102100496)

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

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75-00-BZ

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

SUBJECT – Application October 26, 2009 – Extension of Term of a previously granted Variance (§72-21) to permit a real estate office (UG6) in a residential district which expires on July 25, 2010; amendment to change use (within the same UG6 office use). R5 zoning district.

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

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – 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 a reopening and an extension of term of a previously granted variance permitting, within an R5 zoning district, the conversion of a building from a medical office use to a Use Group 6 real estate management office use, which expires on July 25, 2010 and a change to another office use within Use Group 6; 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 January 26, 2010, and then to decision on February 2, 2010; and

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

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

WHEREAS, the site is located on the east side of Woodhaven Boulevard, between Eliot Avenue and Whetherole Street, within an R5 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 25, 2000 when, under the subject calendar number, the Board granted a variance to permit the conversion of a building from a medical office use to a Use Group 6 real estate management office use, to expire on July 25, 2010; and

WHEREAS, by letter dated April 25, 2001, the Board permitted the modification of the interior layout of the subject site and confirmed that a sprinkler system was not a condition of the Board’s original grant; and

WHEREAS, the applicant now requests an additional ten-year term; and

WHEREAS, the applicant further requests a change in use from a Use Group 6 real estate management office use to another Use Group 6 office use; and

WHEREAS, the applicant states that the site is proposed to be used as the office headquarters for a company that is a supplier of television and audio equipment for hospitals; and

WHEREAS, the applicant represents that the proposed use is in keeping with the scope and intent of the prior variance grant, as the proposed office would operate five days per week whereas the real estate management office operated six days per week, the two uses would have a similar number of employees at the site on a daily basis, and the proposed use would have fewer daily visitors to the site; and

WHEREAS, the applicant further represents that the site will not be used for the storage of equipment and there will be no deliveries of equipment to the site, as these activities occur at a separate warehouse and distribution facility; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens*, and *amends* the resolution, as adopted on July 25, 2000, so that as amended this portion of the resolution shall read: “to extend the term for ten years from July 25, 2010, to expire on July 25, 2020, and to permit the change in use from a Use Group 6 real estate management office to a Use Group 6 office; *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received October 26, 2009”- (4) sheets and “January 12, 2010”-(1) sheet; and *on further condition*:

THAT the term of this grant shall expire on July 25, 2020;

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

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

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. 401069482)

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

311-04-BZ

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

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

PREMISES AFFECTED – 380 Lighthouse Avenue, south side of Lighthouse Avenue, 579’ west of Winsor Avenue,

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Block 2285, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

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, this is an application for a reopening and an amendment to a previously granted variance which permitted a single-family home which did not comply with the zoning requirements for lot area, rear yard, and front yard, and which required modification of certain natural area conditions, to construct a single family home which is contrary to the previously-approved plans and does not comply with zoning regulations for lot coverage or height, contrary to ZR §§ 105-33 and 23-661; and

WHEREAS, a public hearing was held on this application on October 20, 2009, after due notice by publication in *The City Record*, with continued hearings on November 17, 2009, December 15, 2009, and January 26, 2010, and then to decision on February 2, 2010; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, City Council Member James S. Oddo provided testimony in opposition to this application; and

WHEREAS, a representative of the Lighthouse Hill Civic Association testified in opposition to this application; and

WHEREAS, the subject site is located on the south side of Lighthouse Avenue, between Winsor Avenue and St. George Road, in an R1-2 zoning district within Special Natural Area District NA-1; and

WHEREAS, the Board has had jurisdiction over the subject site since February 8, 2005 when, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21, to permit the construction of a single-family detached home which did not comply with the zoning requirements for lot area, rear yard, and front yard, and which required modification of the existing topography, alteration of botanic environments or removal of trees and the alteration of other natural features, contrary to ZR §§ 105-50, 105-241, 105-423 and 105-432; and

WHEREAS, the applicant states that, subsequent to the Board’s grant, it discovered that the plans associated with the variance did not comply with lot coverage or height requirements, pursuant to ZR §§ 105-33 and 23-661; and

WHEREAS, specifically, the applicant proposes a home with a lot coverage of 22 percent (12.5 percent is the maximum permitted) and a height of 48’-7” at its peak (30’-0” is the maximum permitted); and

WHEREAS, the applicant states that the site is sloped, from an elevation of 120 feet along the northern lot line, adjacent to Lighthouse Avenue, to an elevation of less than 84 feet along the southern lot line, such that the site meets the definition of “steep slope” as set forth in ZR § 105-11(b)(1); and

WHEREAS, the applicant represents that this slope resulted in a discrepancy in the computation of the permitted height for the original grant, because when calculated from the grade at Lighthouse Avenue, the proposed building complies with the maximum permitted height of 30 feet, but when measured from the rear, the slope of the site results in a substantial portion of the home exceeding the permitted height; and

WHEREAS, the applicant represents that it is not possible to provide a reasonable amount of floor area within the maximum permitted height; and

WHEREAS, the applicant notes that the lot coverage requirement of ZR § 105-33 would limit the proposed home to a maximum footprint of 1,221 sq. ft.; and

WHEREAS, the applicant states that reducing the proposed lot coverage of 2,154 sq. ft. would further restrict the amount of buildable floor area, or would alternatively require an increased waiver with respect to the proposed height; and

WHEREAS, the applicant represents that the proposed amendment will not negatively affect the character of the neighborhood, or impact adjacent uses, as there is only one home adjacent to the subject site, and it is separated by an open area approximately 74 feet in width; and

WHEREAS, the applicant states that the adjacent home is also located at grade that is approximately 10 feet higher than the subject site, so that there is no visual impact from the height of the proposed home; and

WHEREAS, the applicant also seeks to modify the previously approved plans for the subject site; and

WHEREAS, the applicant now proposes a home with a floor area of 3,109 sq. ft., (0.32 FAR) and an open space ratio (“OSR”) of 245 percent; the previously-approved plans reflected a home with a floor area of 2,943 sq. ft. (0.30 FAR) and an OSR of 253 percent; and

WHEREAS, the applicant notes that the proposed FAR and OSR are in compliance with the subject zoning district regulations; and

WHEREAS, at hearing, the Board directed the applicant to reduce the height of portions of the roof so as to reduce the degree of non-compliance; and

WHEREAS, in response, the applicant submitted revised plans reflecting a reduction in height for the majority of the home; and

WHEREAS, at hearing, the Board questioned whether the proposal, which would eliminate a number of trees from the site, is in compliance with ZR § 105-32 and the tree requirements of the Special Natural Area District; and

WHEREAS, in response, the applicant submitted revised drawings and a tree chart that reflect that the proposal includes 18 trees and 30 tree credits, which exceeds the 10 trees and 20 tree credits that are required; and

WHEREAS, finally, the applicant requests an elimination

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of the condition of the prior grant which does not permit bedrooms to be located in the cellar of the proposed home; and

WHEREAS, the Board notes that the previous grant approved a home with three levels, and that the applicant reduced the home to two levels in order to address the height waiver; and

WHEREAS, as a result, the applicant states that two bedrooms are now located in the cellar because the proposed home only has two levels; and

WHEREAS, accordingly, the Board finds the elimination of the condition prohibiting bedrooms in the cellar appropriate, pursuant to Department of Buildings (“DOB”) review; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, based upon its review of the evidence, the Board finds that the requested amendment is appropriate, with certain conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated February 8, 2005, so that as amended this portion of the resolution shall read: “to permit the noted modifications to the plans which do not comply with zoning regulations related to lot coverage and height, contrary to ZR §§ 105-33 and 23-661; *on condition* that all work shall substantially conform to drawings filed with this application and marked “Received December 11, 2009”-(11) sheets and “January 11, 2010”-(3) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,109 sq. ft. (0.32 FAR); a maximum lot coverage of 22 percent; a maximum total height of 48’-7”; an open space ratio of 245 percent; a front yard with a depth of 10’-0”; a side yard with a width of 15 feet along the eastern lot line; a side yard with a depth of 101 feet along the western lot line; a rear yard with a depth of 20’-0”; and three parking spaces, as reflected on the BSA-approved plans;

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

THAT substantial construction shall be completed in accordance with the BSA-approved plans by February 2, 2014;

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. 500733646)

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

16-36-BZ

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

SUBJECT – Application October 27, 2009 – Extension of Term (§11-411) for the continued operation of an existing Gasoline Service Station (*Gulf*) which expired on November

1, 2007; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 1885 Westchester Avenue, southeast corner of the intersection between Westchester Avenue and White Plains Road, Block 3880, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Laid over to February 23, 2010, at 10 A.M., for continued hearing.

111-71-BZ

APPLICANT – Walter T. Gorman, P.E., for Motiva Enterprises LLC, owner; Erol Bayrdktar, lessee.

SUBJECT – Application December 15, 2009 – Extension of Time to obtain a Certificate of Occupancy for a Gasoline Service Station (*Shell*) which expired on October 28, 2009; Waiver of the Rules. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 185-25 North Conduit Avenue, north west corner of Springfield Boulevard, Block 13094, Lot p/o 63, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Cindy Bachan.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

35-09-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for East 103rd Street Realty LLC c/o Glenwood Management Corporation, owner.

SUBJECT – Application December 9, 2009 – Extension of Time to obtain a Certificate of Occupancy for a (UG16) contractors' establishment on the ground floor of a two-story building which expired on December 9, 2009. R7A zoning district.

PREMISES AFFECTED – 345-347 East 103rd Street, north side of East 103rd Street, between First and York Avenues, Block 1675, Lots 21 and 22, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: James Power.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

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DISMISSAL CALENDAR

184-07-BZ & 185-07-BZ

APPLICANT – NYC Board of Standards and Appeals
OWNER: Domenick Licata
SUBJECT – Dismissal for lack of prosecution of an application for a variance to allow a residential building, contrary to use regulations. M1-1 zoning district.
PREMISES AFFECTED – 32 Fountain Avenue, west side, between Atlantic Avenue and Wells Street, Block 4154, Lot 61, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeal, February 2, 2010.

255-08-BZ & 256-08-BZ

APPLICANT – NYC Board of Standards and Appeals
OWNER: Moustafa Gouda
SUBJECT – Dismissal for lack of prosecution of an application for a variance to allow residential buildings, contrary to lot area regulations. R7-2 zoning district.
PREMISES AFFECTED – 1994-1996 Madison Avenue, west side of Madison Avenue between East 127th and East 128th Streets, Block 1752, Lot 16, 116, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to February 9, 2010, at 10 A.M., for postponed, new dismissal calendar.

APPEALS CALENDAR

147-08-BZY

APPLICANT – Hui-Li Xu, for Beachway Equities, Inc., owner.
SUBJECT – Application May 23, 2008 – Extension of time (§11-331) to complete construction of a minor development commenced under the prior zoning district. R5 zoning district.
PREMISES AFFECTED – 95-04 Allendale Street, between Atlantic Avenue and 97th Avenue, Block 10007, Lot 108, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to June 22, 2010, at 10 A.M., for adjourned hearing.

252-09-A

APPLICANT – Marc A. Chiffert, P.E., for Gani Realty Corporation, owner.
SUBJECT – Application September 9, 2009 – Appeal challenging the NYC Fire Department determination that construction of a proposed building on a private street does not provide proper fire access for emergency vehicles. R8 zoning district.

PREMISES AFFECTED – 2788 Grand Concourse Boulevard, between Miriam Street and East 197th Street, Block 3304, Lot 103 & 171, Borough of Bronx.

COMMUNITY BOARD #15BX

APPEARANCES –

For Applicant: Marc A. Chiffert.

For Opposition: Anthony Scaduto of Fire Department, Robert Sweeney and Julian Bazel.

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 9, 2010, at 10 A.M., for decision, hearing closed.

265-09-A

APPLICANT – Gary D. Lenhart, for The Breezy Point Cooperative, Incorporated, owner; John Strong, lessee.
SUBJECT – Application September 15, 2009 – Reconstruction and enlargement of an existing single family home and the upgrade of a private disposal system located within the bed of a mapped street, contrary to General City Law Section 35 and Department of Buildings Policy. R4 Zoning District.

PREMISES AFFECTED – 165 Ocean Avenue, east side of Ocean Avenue, 130' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to February 9, 2010, at 10 A.M., for adjourned hearing.

306-09-A

APPLICANT – New York City Department of Buildings
OWNER – Luis Cuji
SUBJECT – Application November 9, 2009 – Appeal seeking to revoke the Certificate of Occupancy for failure to comply with provisions of the Zoning Resolution, Building Code and Multiple Dwelling Law. R5 Zoning district.
PREMISES AFFECTED – 37-48 60th Street, West side of 60th Street 38th and 37th Avenues. Block 1214, Lot 84. Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: John Egnatios-Beene.

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For Opposition: Richard Soleymanzadeh.

ACTION OF THE BOARD – Laid over to March 16, 2010, at 10 A.M., for continued hearing.

312-09-A thru 323-09A

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 340 CS Holdings, LLC, owner.

SUBJECT – Application November 24, 2009 – Appeal seeking a common law vested right to complete construction commenced under the prior R6/C1-3 zoning district. R6A /C2-4 & R6B zoning district.

PREMISES AFFECTED – 340 Court Street, 283-291 Union Street, 292-298 Sackett Street, Block 339, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Gary Tarnoff.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

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

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

ZONING CALENDAR

246-09-BZ

CEQR #10-BSA-016K

APPLICANT – Jordan Most of Sheldon Lobel, P.C., for Louisiana Purchase, LLC, owner.

SUBJECT – Application August 21, 2009 – Variance (§72-21) to allow for the construction of a four story assisted living facility (*Brooklyn Boulevard ALP*) contrary to floor area, dwelling units and parking regulations (§§ 23-141/62-321, 23-22, 25-23). R5 district.

PREMISES AFFECTED – 636 Louisiana Avenue, western side of Louisiana Avenue at its intersection with Twin Pines Drives, Block 8235, Lot 140, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 29, 2009, acting on Department of Buildings Application No. 320123914, reads in pertinent part:

- “1. 23-141(d) ZR Maximum Floor Area Ratio permitted is 1.25; proposed FAR 62-321 ZR exceeds allowable.
2. 23-22 ZR Proposed number of dwelling units exceeds allowable density.
3. 25-23 ZR Proposed number of parking spaces does not meet minimum required quantity;” and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R5 zoning district, a proposed four-story 174-unit assisted living facility which does not comply with zoning regulations for floor area ratio (FAR), number of dwelling units, and parking, and is contrary to ZR §§ 23-141, 62-321, 23-22, and 25-23; and

WHEREAS, a public hearing was held on this application on November 24, 2009, after due notice by publication in the *City Record*, with a continued hearing on January 12, 2010, and then to decision on February 2, 2010; and

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

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

WHEREAS, New York State Senator John L. Sampson provided testimony in support of this application; and

WHEREAS, certain community members provided testimony in support of this application; and

WHEREAS, the subject site is located on the west side of Louisiana Avenue, between Twin Pines Drive and Vandalia Avenue, within an R5 zoning district; and

WHEREAS, the subject lot has 260 feet of frontage on Louisiana Avenue, a depth ranging from 297 feet to 308 feet, and a total lot area of 78,818 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a four-story assisted living facility (Use Group 2) in accordance with the New York State Assisted Living Program (“ALP”); and

WHEREAS, the proposed building will have the following complying parameters: 40,626 sq. ft. of open space; a lot coverage of 48.5 percent; a total height of 40 feet; a side yard with a width of 15’-0” along the northern lot line; a side yard with a width of approximately 53’-0” along the southern lot line; a front yard with a depth of 10’-0”; a rear yard with a depth of approximately 30’-0”; and one loading berth; and

WHEREAS, however, the applicant proposes to provide

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a floor area of 118,275 sq. ft. (98,523 sq. ft. is the maximum permitted), an FAR of 1.50 (the maximum FAR is 1.25), 174 dwelling units (130 is the maximum permitted), and 54 parking spaces (148 is the minimum required); and

WHEREAS, the applicant states that the proposed building will be occupied by: (1) a lobby, multi-purpose recreation room, library/computer room, television room, beauty/make-up room, arts and crafts room, dining room, chapel, kitchens, administrative offices, and storage space on the first floor; (2) medical offices and 57 dwelling units on the second floor; (3) 60 dwelling units on the third floor; and (4) 57 dwelling units on the fourth floor; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable regulations: (1) the site's soil has a poor load-bearing capacity; and (2) there is a high water table at the site; and

WHEREAS, as to the load-bearing capacity of the soil, the applicant submitted a report from its engineer stating that soil boring tests reflect soil rated at 11-65 to a depth between 20 and 25 feet; and

WHEREAS, the applicant states that 11-65 soils have the poorest load bearing capacity; and

WHEREAS, as to the water table, the applicant represents that the water table was found to be between ten and 11 feet below grade; and

WHEREAS, the applicant submitted boring tests to substantiate this assertion; and

WHEREAS, the applicant represents that the effect of these conditions is that a cellar is not feasible; and

WHEREAS, specifically, the applicant represents that the construction of a cellar is costly and would require special safety measures and that, even without a cellar, the noted conditions result in the need for a more expensive pile foundation; and

WHEREAS, the applicant represents that the cellar level is essential to the development of a viable assisted living facility because it houses many of the required services and ancillary uses; and

WHEREAS, accordingly, because a cellar cannot be provided, a number of service related uses necessary for the operation of the assisted living facility, which could otherwise be located underground and would not contribute to the floor area, must be accommodated on the first floor; and

WHEREAS, the applicant represents that the inability to locate any essential aspects of the assisted living facility below grade results in the need for the floor area waiver; and

WHEREAS, the applicant notes that if the subject site qualified as a community facility use, it would be eligible for a City Planning special permit pursuant to ZR § 74-902, which allows Use Group 3 nursing care facilities to reach an FAR of 2.0 in an R5 zoning district; and

WHEREAS, the applicant states that the New York State Department of Health ("DOH") regulates assisted living facilities that are eligible to receive Medicaid funds, and requires that the appropriateness of ALP services be determined by initial and periodic reassessments provided by the ALP; and

WHEREAS, the applicant submitted a letter from DOH reflecting that the proposed assisted living facility has received approval from DOH for 176 ALP beds, to be accommodated in 174 dwelling units; and

WHEREAS, the applicant states that the lack of a full-size kitchen and the provision of substantial common areas in assisted living facilities leads to the creation of smaller units and a higher unit density than would otherwise be permitted in typical multi-family housing; and

WHEREAS, the applicant further states that assisted living facilities are dominated by studios and one-bedroom units, and that there is virtually no market for two-bedroom units due to the nature of the use; and

WHEREAS, the applicant represents that every assisted living facility requires the same support service infrastructure, including a kitchen, dining room, recreational space, lounge space, chapel, laundry, salon, staff office space, and medical treatment rooms; and

WHEREAS, in support of this statement, the applicant submitted floor plans for a similar assisted living facility located in Queens (the "Boulevard ALP"), which reflected that the Boulevard ALP devoted a comparable amount of square footage per floor to essential service space as the proposed building; and

WHEREAS, specifically, the floor plans submitted by the applicant reflect that the Boulevard ALP devotes 25.6 percent of square footage per floor to essential service space and the proposed assisted living facility would devote 26.2 percent of square footage to essential service space; and

WHEREAS, the applicant identified another ALP, the Regency of Borough Park, as also being comparable but noted that, as a conversion of an existing building, it faced certain design limitations, which may not be present in new construction; and

WHEREAS, the applicant states that the proposed 174 dwelling units are required to offset the cost of building this infrastructure, and that the R5 bulk provisions constrain the applicant from devoting additional floor area to the dwelling units; and

WHEREAS, the applicant submitted plans reflecting that the proposed units comply with the Zoning Resolution requirements for minimum unit size, as well as New York State Department of Social Services and DOH regulations; and

WHEREAS, the applicant states that the proposed parking waiver is necessary because providing the required 148 parking spaces would dramatically alter the unit count or configuration of the proposed assisted living facility, creating either fewer beds or many more two-bedroom units, which would make the project financially infeasible; and

WHEREAS, the applicant represents that the proposed 54 spaces will provide ample parking for the proposed building because the residents of an assisted living facility are generally facility bound and do not own automobiles or generate any vehicular or transit trips; and

WHEREAS, the applicant states that the move to the assisted living facility involves a transition for automobile driving tenants from car ownership to non-car ownership; and

WHEREAS, the applicant notes that at the Boulevard

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ALP, which provides 239 beds in 201 units and 140 parking spaces, approximately 26 of the parking spaces are used on a regular basis by staff and visitors; and

WHEREAS the applicant represents that no more than three spaces at the Boulevard ALP have ever been allocated to residents who own automobiles, and none of those three were able to drive; and

WHEREAS, the applicant notes that the proposed 54 parking spaces would comply with the parking requirements for a non-profit residence for the elderly, pursuant to ZR § 25-25; and

WHEREAS, the applicant represents that although the program of the proposed assisted living facility will operate similar to a non-profit residence for the elderly, the owner of the proposed facility is not a non-profit and therefore does not qualify for the increased FAR and reduced parking that would otherwise be available; and

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

WHEREAS, the applicant provided a financial analysis for (1) an as-of-right residential building; (2) an as-of-right ALP building with a cellar; (3) an as-of-right ALP building without a cellar; and (4) the proposed building; and

WHEREAS, the applicant concluded that the as-of-right scenarios would not result in a reasonable return due to the unique physical conditions of the site, but that the proposed assisted living facility would realize a reasonable return and has submitted evidence in support of that assertion; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning requirements will provide a reasonable return; and

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

WHEREAS, the applicant submitted a radius diagram reflecting that the subject site is surrounded by a four-story adult care facility to the south, a 17-story residential building across Louisiana Avenue to the east, and a three-story townhouse condominium development to the north; and

WHEREAS, the radius diagram also reflected that the rear of the subject site abuts the Fresh Creek Basin wetlands, and therefore there are no neighbors to the rear of the proposed building; and

WHEREAS, the applicant notes that the FAR waiver is only necessary due to the inability to locate essential floor area in the cellar, and that the envelope of the proposed building otherwise complies with the bulk requirements of the subject R5 zoning district; and

WHEREAS, at hearing, the Board questioned what effect the Pierhead and Bulkhead line that crosses a portion of the

property has on the proposed development; and

WHEREAS, in response, the applicant submitted a letter from the Department of Buildings ("DOB") stating that it has no objection to considering any land above water that projects seaward of the bulkhead up to the shore line as part of the upland lot which can be developed, provided the applicant submit a survey showing the elevations of all upland areas; and

WHEREAS, the applicant submitted a survey confirming the upland elevations of the site; and

WHEREAS, the applicant submitted evidence indicating that the subject site is not within the Tidal Wetland Boundary, is not within the definition of tidal wetlands as defined in Local Law 21-2009, and is not under New York State Department of Environmental Conservation jurisdiction; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the site's unique subsurface soil conditions; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.2 and 617.6 of 6NYCRR; 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. 10BSA136K, dated August 20, 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, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the

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required findings under ZR § 72-21 and grants a variance to permit, on a site within an R5 zoning district, a four-story 174-unit assisted living facility which does not comply with zoning regulations for FAR, number of dwelling units, and parking, and is contrary to ZR §§ 23-141, 62-321, 23-22, and 25-23, *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 29, 2010"- (18) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 118,275 sq. ft.; a maximum FAR of 1.50; 40,626 sq. ft. of open space; a lot coverage of 48.5 percent; a total height of 40 feet; a side yard with a width of 15'-0" along the northern lot line; a side yard with a width of approximately 53'-0" along the southern lot line; a front yard with a depth of 10'-0"; a rear yard with a depth of approximately 30'-0"; 174 dwelling units; 54 parking spaces; and one loading berth;

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

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

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

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

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

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.

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 2, 2010, at 1:30 P.M., for decision, hearing closed.

44-09-BZ

APPLICANT – Philip L. Rampulla, for Tony Chrampanis, owner.

SUBJECT – Application March 11, 2009 – Variance (§72-21) to allow for a two-story commercial building (UG 6) with accessory parking, contrary to use regulations (§22-00). R3-1 district.

PREMISES AFFECTED – 2175 Richmond Avenue, Eastside of Richmond Avenue 39.80' south of Saxon Avenue, Block 2361, Lot 12(tent), 14, 17, 22, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES – None.

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

182-09-BZ

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

SUBJECT – Application June 4, 2009 – Variance (§72-21) to legalize the existing UG 3 novitiate and UG 4 house of worship (*Congregation Mita*), contrary to §§ 24-35 (side yard) and 24-36 (rear yard). R7-2 zoning district.

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

COMMUNITY BOARD #12M

APPEARANCES –

For Applicant: Todd Dale and Carlo Nuzzi.

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 2, 2010, at 1:30 P.M., for decision, hearing closed.

253-09-BZ

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

SUBJECT – Application September 4, 2009 – Special Permit (§73-30) to install public utility wireless telecommunications facility on roof of existing building. R4 zoning district.

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

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: John Coughlin and Robert Thoms.

For Opposition: Susan Kohl and Walter Sanchez.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

Adjourned: P.M.

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: Elizabeth Safian.

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

272-09-BZ

APPLICANT – Jeffrey A. Chester, Esq., for Bob Roberts, owner; The Fitness Place Astoria N.Y. Inc., lessee.

SUBJECT – Application September 24, 2009 – Special Permit (§73-36) to legalize the operation of an existing physical culture establishment (*Lucille Roberts*) on the cellar, first and second floors in an existing two-story building. C4-2 zoning district.

PREMISES AFFECTED – 32-62 Steinway Street, north side, 281' east of 34th Avenue, Block 656, Lot 61, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Jeffrey Chester.

For Administration: Anthony Scaduto, Fire Department.

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

294-09-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, for Shree Ram FLP, owner.

SUBJECT – Application October 16, 2009 – Special Permit (§73-125) to legalize a one-story ambulatory diagnostic and treatment health care facility. R3A zoning district.

PREMISES AFFECTED – 3768 Richmond Avenue, west side of Richmond Avenue, 200' south of the intersection with Petrus Avenue, Block 5595, Lot 11, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Todd Dale.

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

Jeff Mulligan, Executive Director