
BULLETIN

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AND APPEALS

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May 20, 2010

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63-10-BZ

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64-10-BZ

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65-10-BZ

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66-10-BZ

1618 Shore Boulevard, South side of Shore Boulevard between Oxford and Norfolk Streets., Block 8757, Lot(s) 86, Borough of **Brooklyn, Community Board: 15.** Special Permit (73-622) for the enlargement of a single family home. R3-1 district.

67-10-A

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68-10-BZ

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69-10-BZ

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70-10-BZ

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71-10-A

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72-10-A

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73-10-A

106 Turner Street, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 183, Borough of **Staten Island, Community Board: 3.** Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

74-10-A

108 Turner Street, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 184, Borough of **Staten Island, Community Board: 3.** Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

75-10-A

110 Turner Street, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 185, Borough of **Staten Island, Community Board: 3.** Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

76-10-A

112 Turner Street, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 186, Borough of **Staten Island, Community Board: 3.** Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

DOCKET

77-10-A

114 Turner Street, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 187, Borough of **Staten Island, Community Board: 3**. Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

78-10-A

116 Turner Street, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 188, Borough of **Staten Island, Community Board: 3**. Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

79-10-A

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80-10-A

11661 Woodrow Road, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 4, Borough of **Staten Island, Community Board: 3**. Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

81-10-A

1663 Woodrow Road, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 5, Borough of **Staten Island, Community Board: 3**. Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

82-10-A

1665 Woodrow Road, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 6, Borough of **Staten Island, Community Board: 3**. Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

83-10-A

1667 Woodrow Road, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 7, Borough of **Staten Island, Community Board: 3**. Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 district.

84-10-A

1669 Woodrow Road, Between Crabtree Avenue and Woodrow Road., Block 7105, Lot(s) 8, Borough of **Staten Island, Community Board: 3**. Appeal for common law vesting rights to continue development under thr prior zoning district. R3-1 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 25, 2010, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 25, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

336-98-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for 312 Flatbush Avenue LLC, owner; Crunch LLC d/b/a Crunch, lessee.

SUBJECT – Application May 11, 2010 – Extension of Time to obtain a Certificate of Occupancy of a previously granted Special Permit (§73-36) for the operation of a Physical Culture Establishment (Crunch Fitness) which expired on February 11, 2010; waiver of the rules. C2-4 zoning district.

PREMISES AFFECTED – 312/18 Flatbush Avenue, Northwest corner of the intersection of Flatbush Avenue and Sterling Place, Block 1057, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #6BK

337-98-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for 312 Flatbush Avenue LLC, owner; Crunch LLC d/b/a Crunch, lessee.

SUBJECT – Application May 11, 2010 – Extension of Time to obtain a Certificate of Occupancy of a previously granted Special Permit (§73-36) for the operation of a Physical Culture Establishment (Crunch Fitness) which expired on February 11, 2010; waiver of the rules. C2-4 zoning district.

PREMISES AFFECTED – 324/34 Flatbush Avenue, Northwest corner of the intersection of Flatbush Avenue and Sterling Place. Block 1057, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #6BK

MAY 25, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 25, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

333-09-BZ

APPLICANT – Moshe M. Friedman, for Cong Yeshiva Beis Chaya Mushka, Inc., owner.

SUBJECT – Application December 23, 2009 – Variance (§72-21) to permit the vertical extension of an existing religious school. The proposal is contrary to floor area, lot coverage, height, sky exposure plane, front yard, and side yard (§24-11, §24-521, §24-34, and §24-35). R4 zoning district.

PREMISES AFFECTED –360 Troy Avenue aka 348-350 Troy Avenue aka 1505-1513 Carroll Street, northwest corner of Troy Avenue and Carroll Street, Block 1406, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD # 9BK

21-10-BZ

APPLICANT – Richard Lobel, P.C., for Aquila Realty Company, Incorporated, owner.

SUBJECT – Application February 12, 2010 – Special Permit (§73-243) to legalize an eating and drinking establishment with a drive-through. C1-2/R4A zoning district.

PREMISES AFFECTED – 2801 Roebling Avenue aka 1590 Hutchison River Parkway, southeast corner of Roebling Avenue and Hutchinson River Parkway, Block 5386, Lot 1, Borough of Bronx.

COMMUNITY BOARD #10BX

41-10-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for NYU Hospital Center, owner; New York University, lessee.

SUBJECT – Application March 24, 2010 – Variance pursuant to ZR §72-21 to allow for the enlargement of a community facility (*NYU Langone Medical Center*) contrary to rear yard (ZR §24-36) and signage regulations (ZR §22-321, §22-331, §22-342). R8 zoning district.

PREMISES AFFECTED – 522-566/596-600 First Avenue aka 400-424 East 34th Street and 423-437 East 30th Street, East 34th Street; Franklin D. Roosevelt; East 30th Street and First Avenue, Block 962, Lot 80, 108 & 1001-1107, Borough of Manhattan.

COMMUNITY BOARD #6M

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, MAY 11, 2010
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

389-37-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Rosemarie Fiore, Georgette Fiore and George Fiore, owner.
SUBJECT – Application June 10, 2009 – Extension of Term (§11-411) of a previously granted Variance for the operation of a UG8 parking lot which expired on June 13, 2008; Extension of Time to obtain a Certificate of Occupancy which expired on December 12, 2004 and Waiver of the Rules. R5/C1-2 zoning district.

PREMISES AFFECTED – 31-08 – 31-12 45th Street, southwest corner of 45th Street and 31st Avenue, Block 710, Lot 5, 6, 17, 18, 19, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of the term for a previously granted variance for the operation of a Use Group 8 parking lot, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on November 24, 2009, after due notice by publication in *The City Record*, with continued hearings on January 12, 2010, February 23, 2010 and April 13, 2010, and then to decision on May 11, 2010; and

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

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

WHEREAS, the subject site is located on the southwest corner of 45th Street and 31st Avenue, within a C1-2 (R5) zoning district; and

WHEREAS, the site is occupied by an open parking lot; and

WHEREAS, the Board has exercised jurisdiction over the site since April 5, 1938 when, under the subject calendar number, the Board granted a variance to permit the parking and

storage of more than five motor vehicles on the site, for a term of two years; and

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

WHEREAS, most recently, on December 16, 2003, the Board granted a five-year extension of term, which expired on June 13, 2008; a condition of the grant was that a certificate of occupancy be obtained by December 16, 2004; and

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

WHEREAS, the applicant represents that it was unable to obtain a certificate of occupancy within the stipulated time in part due to procedural issues at the Department of Buildings; and

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

WHEREAS, the applicant also seeks to remove the condition of the previous grant requiring the applicant to submit a financial study examining the feasibility of residential use at the site; and

WHEREAS, the applicant states that the condition requiring a financial analysis for residential development was not due to any problem with the operation or appearance of the site, but was included to encourage as-of-right development of the site; and

WHEREAS, the applicant further states that the subject parking lot has operated continuously on the site for over 70 years and is a benefit to the community, as parking is scarce in the surrounding area; and

WHEREAS, the applicant represents that the as-of-right residential development of the site is not feasible; and

WHEREAS, the applicant also seeks to amend the approved plans to reflect that the fencing does not provide 50 percent opaque screening; and

WHEREAS, the applicant states that the installation of screening would create a safety hazard for the users of the lot because it would block visual access into the lot; and

WHEREAS, the Board has determined that the removal of the condition requiring a financial analysis for residential development, and the amendment of the approved plans to remove the note requiring 50 percent opaque screening is appropriate; and

WHEREAS, at hearing, the Board questioned whether the applicant had a Department of Consumer Affairs (“DCA”) license that allows the parking of vehicles at the site; and

WHEREAS, in response, the applicant submitted a DCA license which is valid through March 2011; and

WHEREAS, based upon the above, the Board finds that the requested extension of term, extension of time to obtain a certificate of occupancy, and the amendment 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, dated April 5, 1938, so that as amended this portion of the resolution shall read: “to extend

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the term for ten years from June 13, 2008, to expire on June 13, 2018, to extend the time to obtain a certificate of occupancy to May 11, 2011, and to eliminate two specified conditions from prior approvals; *on condition* that all use and operations shall substantially conform to plans filed with this application marked "Received April 15, 2010"-(1) sheet; and *on further condition*:

THAT the term of the grant shall expire on June 13, 2018;

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

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

THAT a new certificate of occupancy shall be obtained by May 11, 2011;

THAT all conditions from prior resolution not specifically waived by the Board remain in effect; 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. 410230245)

Adopted by the Board of Standards and Appeals May 11, 2010.

223-98-BZ

APPLICANT – Andrea Claire/Peter Hirshman for Jilda Realty Corporation, owner.

SUBJECT – Application October 29, 2009 – Extension of Term of a previous variance that permits the operation of an automotive service station (UG 16B) which will expire on February 1, 2010; Amendment to allow used car sales (UG 16B); Extension of Time to obtain a Certificate of Occupancy which expired on June 10, 2003; Waiver of the Rules. R6B zoning district.

PREMISES AFFECTED – 51-59 Maujer Street, aka 451-459 Lorimer Street, northeast corner of the intersection of Maujer Street and Lorimer Street, Block 2785, Lot 31 & 32, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Peter Hirshman.

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 operation of an automotive service station (Use Group 16), an extension of time to obtain a certificate of occupancy, and an amendment to permit the sale of motor vehicles; and

WHEREAS, a public hearing was held on this application on January 12, 2009, after due notice by publication in *The City Record*, with continued hearings on March 16, 2010 and April 13, 2010, and then to decision on May 11, 2010; and

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

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

WHEREAS, City Council Member Diana Reyna recommends approval of this application; and

WHEREAS, United States Congressperson Nadia M. Velazquez provided written testimony in support of this application; and

WHEREAS, New York State Senator Martin Malave Dilan provided written testimony in support of this application; and

WHEREAS, the site is located on the northeast corner of Maujer Street and Lorimer Street, within an R6B zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 20, 1943 when, under BSA Cal. No. 743-42-BZ, the Board granted a variance to permit a gasoline service station on Lot 32; and

WHEREAS, the term of the variance was extended at various times; and

WHEREAS, on February 1, 2000, the Board granted a new variance, under the subject calendar number to allow for the enlargement of the gasoline service station, which included the merger of Lot 31 and Lot 32, for a term of ten years, to expire on February 1, 2010; a new certificate of occupancy was required within 18 months of the grant; and

WHEREAS, the applicant now requests an additional 20-year term and an extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained by the stipulated date due to administrative oversight; and

WHEREAS, the applicant also seeks to amend the prior resolution to permit the sale of motor vehicles, limited to five, in the area used for storage of motor vehicles on the un-built portion of the lot, as reflected on the plans; and

WHEREAS, at hearing, the Board directed the applicant to: (1) eliminate signage associated with the gasoline service station use, but located on an adjacent residential building; (2) document signage on the site and remove any signage that is inconsistent with prior approvals and which does not comply with C1 zoning district regulations; and (3) ensure that all exterior lighting be directed downward, away from nearby residential uses; and

WHEREAS, in response, the applicant (1) removed the signage on the adjacent residential building; (2) removed banner signage and provided a sign analysis, which reflects that the existing and proposed signage is consistent with prior approvals and complies with C1 zoning district

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regulations; and (3) stated that all exterior lighting shall be directed downward, away from nearby residential uses; and

WHEREAS, the applicant also provided photographs of the site reflecting the signage condition and revised plans, which reflect the existing lift and proposed planters; and

WHEREAS, based upon the above, the Board finds that the requested extension of term, extension of time to obtain a certificate of occupancy, and amendment 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, dated February 1, 2000, so that as amended this portion of the resolution shall read: “to extend the term for 20 years from February 1, 2010, to expire on February 1, 2030; to grant an extension of time to obtain a certificate of occupancy to May 11, 2011; and to permit the inclusion of the sale of automobiles; *on condition* that all use and operations shall substantially conform to drawings filed with this application marked “March 31, 2010”-(1) sheet and “April 27, 2010”-(1) sheet; and *on further condition*:

THAT the term of the grant shall expire on February 1, 2030;

THAT a certificate of occupancy shall be obtained by May 11, 2011;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect; 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. 300732982)

Adopted by the Board of Standards and Appeals, May 11, 2010.

199-00-BZ

APPLICANT – John C. Chen, for En Ping Limited, owner; Valentine E. Partner Atlantis, lessee.

SUBJECT – Application March 3, 2010 – Extension of Term of a Special Permit (§73-244) for an Eating and Drinking Establishment (*Club Atlantis*) without restrictions on entertainment (UG12A) which expired on March 13, 2010. Waiver of the Rules. C2-3/R6 zoning district.

PREMISES AFFECTED – 76-19 Roosevelt Avenue, north west corner partly fronting Roosevelt Avenue and 77th Street, Block 1287, Lot 37, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: John C. Chen.

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 re-opening and an extension of term of a previously granted special permit for an eating and drinking establishment without restrictions on entertainment (UG 12A), which expired on March 13, 2010, and an amendment to permit the installation of an access door to the adjacent restaurant; and

WHEREAS, a public hearing was held on this application on April 20, 2010, after due notice by publication in *The City Record*, and then to decision on May 11, 2010; and

WHEREAS, Community Board 3, Queens, recommends approval of this application; and

WHEREAS, City Council Member Daniel Dromm provided written testimony in support of this application; and

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

WHEREAS, the subject site is located on the northwest corner of Roosevelt Avenue and 77th Street, within a C2-3 (R6) zoning district; and

WHEREAS, the site is occupied by an eating and drinking establishment with entertainment, operated as Club Atlantis, within a portion of a one-story building that occupies the entire zoning lot; and

WHEREAS, the building is also occupied by an enclosed garage for five vehicles, a restaurant (owned by the owner of the subject eating and drinking establishment), and four retail stores; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 13, 2001, when, under the subject calendar number, the Board granted a special permit under ZR § 73-244 to permit the legalization of an existing eating and drinking establishment with entertainment and dancing; and

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

WHEREAS, most recently, on July 17, 2007, the Board granted a three-year extension of term, which expired on March 13, 2010; and

WHEREAS, the applicant now requests an extension of term and amendment of the resolution to permit installation of a fire-proof self-closing access door to the adjoining restaurant and open area; and

WHEREAS, the applicant states that patrons will not be permitted to use the proposed access door, which will include an “Employees Only” sign; and

WHEREAS, based upon the above, the Board finds the requested extension and amendment 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 13, 2001, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the term for a period of three years from March 13, 2010, to expire on March 13, 2013, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received March 3, 2010’-(4) sheets; and *on further condition*:

THAT the term of this grant shall expire on March 13,

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2013;

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 and shall be listed on the certificate of occupancy;

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. 401018206)

Adopted by the Board of Standards and Appeals, May 11, 2010.

121-02-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, 9215 4th Avenue, LLC, owner.

SUBJECT – Application January 11, 2010 – Amendment (§73-11) to a special permit (§73-11) for an enlargement of a Physical Culture Establishment. C8-2 zoning district.

PREMISES AFFECTED – 9215 4th Avenue, east side of 4th Avenue, 105’ south of intersection with 92nd Street, Block 6108, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #10BK

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 special permit for a physical culture establishment (“PCE”), to legalize a 2,910 sq. ft. enlargement of the mezzanine; and

WHEREAS, a public hearing was held on this application on March 9, 2010, after due notice by publication in *The City Record*, with a continued hearing on April 20, 2010 and then to decision on May 11, 2010; and

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

WHEREAS, Community Board 10, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on a through lot with frontage on Fourth Avenue and Fifth Avenue, approximately 105 feet south of 92nd Street, in a C8-2 zoning district within the Special Bay Ridge District; and

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

WHEREAS, the PCE currently occupies a total of 18,549 sq. ft. on the first floor and mezzanine of the building; and

WHEREAS, the PCE is operated as Harbor Fitness; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 26, 2002 when, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-36 to legalize the existing PCE on the first floor and mezzanine of the subject building; and

WHEREAS, on July 18, 2006, under the subject calendar number, the Board granted an extension of term, to expire on January 1, 2016; and

WHEREAS, the applicant now seeks an amendment to reflect the enlargement of the mezzanine from 2,889 sq. ft. to 5,799 sq. ft., resulting in an increase in the total floor area of the PCE from 15,639 sq. ft. to 18,549 sq. ft.; and

WHEREAS, the applicant states that the increased space at the mezzanine level will be occupied by fitness machines as well as men’s and women’s locker rooms; and

WHEREAS, at hearing, the Board questioned whether the PCE complies with C8 district signage regulations, including projection requirements for the marquee located at the site; and

WHEREAS, in response, the applicant submitted a signage analysis and a marquee permit reflecting that the site complies with C8 district signage requirements; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to the previous grant is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated November 26, 2002, so that as amended this portion of the resolution shall read: “to permit a 2,910 sq. ft. enlargement of the PCE use at the mezzanine; *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received January 11, 2010”– (4) sheets; and *on further condition*:

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

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

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

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

(DOB Application No. 320085108)

Adopted by the Board of Standards and Appeals, May 11, 2010.

MINUTES

363-04-BZ

APPLICANT – Moshe M. Friedman, P.E., for 6002 Fort Hamilton Parkway Partners, owners; Michael Mendelovic, lessee.

SUBJECT – Application March 25, 2010 – Extension of Time to Complete Construction of a previously approved variance (§72-21) to convert an industrial building to commercial/residential use, which expired on July 19, 2009; Waiver of the Rules. M1-1 zoning district.

PREMISES AFFECTED – 6002 Fort Hamilton Parkway, south of 61st, east of Hamilton Parkway, north of 60th Street, Block 5715, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Tzvi Friedman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to complete construction for the conversion of an existing industrial building to residential/commercial use; and

WHEREAS, a public hearing was held on this application on April 20, 2010, after due notice by publication in *The City Record*, and then to decision on May 11, 2010; and

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

WHEREAS, the site is located on a corner lot bounded by 60th Street to the north, Fort Hamilton Parkway to the east, and 61st Street to the south, within an M1-1 zoning district; and

WHEREAS, the site is occupied by a one- and three-story vacant warehouse/commercial building with approximately 51,474 sq. ft. of floor area; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 19, 2005 when, under the subject calendar number, the Board granted a variance to permit the conversion of an existing industrial building to residential/commercial use; and

WHEREAS, on November 21, 2006, the Board amended the grant to permit the removal of the proposed mezzanines, the reconfiguration of dwelling units, commercial space, and the parking lot, and other interior and exterior reconfigurations to the approved plans; and

WHEREAS, substantial construction was to be completed by July 19, 2009, in accordance with ZR § 72-23; and

WHEREAS, the applicant represents that construction has been delayed due to financing issues and the discovery of asbestos containing material at the site; and

WHEREAS, the applicant represents that it has since resolved the financing issues, performed all necessary asbestos

abatement work, and provided an Asbestos Control Program certification to the Department of Buildings for approval; and

WHEREAS, thus, the applicant requests an extension of time to complete construction; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated July 19, 2005, so that as amended this portion of the resolution shall read: “to grant an extension of time to complete construction for a term of four years, to expire on July 19, 2013; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT substantial construction shall be completed by July 19, 2013;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 301799034)

Adopted by the Board of Standards and Appeals May 11, 2010.

16-36-BZ

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

SUBJECT – Application October 27, 2009 – Extension of Time to obtain a Certificate of Occupancy of an existing Gasoline Service Station (*Gulf*) which expired on March 18, 2009; 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.

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.

MINUTES

887-54-BZ

APPLICANT – Eric Palatnik, Esq., for 218 Bayside Operating LLC, owner.

SUBJECT – Application March 5, 2010 – Extension of Term (§11-411) for the continued use of gasoline station (*British Petroleum*) with accessory convenience store (*7-Eleven*) which expires on September 23, 2010. C2-2/R6B zoning district.

PREMISES AFFECTED – 218-01 Northern Boulevard, between 218th and 219th Street, Block 6321, Lot 21, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eric Palatnik.

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

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; 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

APPEARANCES –

For Applicant: Josh Rinesmith.

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

11-93-BZ

APPLICANT – Sheldon Lobel, P.C., for Joykiss Management, LLC, owner.

SUBJECT – Application March 26, 2009 – Extension of Term (§11-411 & §11-412) to allow the continued operation of an Eating and Drinking establishment (UG 6) which expired on March 15, 2004; Amendment to legalize alterations to the structure; Waiver of the Rules. C2-2 and R3-2 zoning districts.

PREMISES AFFECTED – 46-45 Kissena Boulevard aka 140-01 Laburnum Avenue, Northeast corner of the intersection formed by Kissena Boulevard and Laburnum Avenue, Block 5208, Lot 32, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Elizabeth Safian.

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

102-95-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for The Argo Corporation as Agent for 50 West 17 Realty Company, owner; Renegades Associates d/b/a Splash Bar, lessee.

SUBJECT – Application March 8, 2010 – Extension of Term of a previously granted Special Permit (§73-244) for a UG12 Eating and Drinking Establishment (*Splash*) which expired on March 5, 2010. C6-4A zoning district.

PREMISES AFFECTED – 50 West 17th Street, south side of West 17th Street, between 5th Avenue and 6th Avenue, Block 818, Lot 78-20 67th Road, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to June 15, 2010, at 10 A.M., for continued hearing.

189-96-BZ

APPLICANT – John C. Chen, for Ping Yee, owner; Edith D'Angelo-Cnandongga, lessee.

SUBJECT – Application March 15, 2010 – Extension of Term for a previously granted Special Permit (§73-244) of a UG12 Eating and Drinking establishment with entertainment and dancing (*Flamingos*) which expires on May 19, 2010. C2-3/R6 zoning district.

PREMISES AFFECTED – 85-12 Roosevelt Avenue, south side of Roosevelt Avenue 58' eastside of Forley Street, Block 1502, Lot 3, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: John C. Chen and Edith F. D'Angelo.

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

4-00-BZ

APPLICANT – Eric Palatnik, P.C., for 243 West 30th Realty, LLC, owner; West Garden Incorporated, lessee.

SUBJECT – Application March 22, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued use of a Physical Culture Establishment (*West Garden*) which expires on May 30, 2010. M1-5 zoning district.

PREMISES AFFECTED – 243 West 30th Street, north side of West 30th Street, east of 8th Street, Block 780, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to May 25,

MINUTES

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

201-01-BZ

APPLICANT – Sheldon Lobel, P.C., for J.H.N. Corporation, owner.

SUBJECT – Application January 27, 2010 – Extension of Term (§72-01 & 72-22) of a previously approved variance permitting the operation of a automobile laundry, lubrication and accessory automobile supply store (UG16b); Amendment seeking to legalize changes and increase in floor area; and Waiver of the Rules. C4-1 zoning district.

PREMISES AFFECTED – 2591 Atlantic Avenue, northwest corner of Atlantic Avenue and Sheffield Avenue, Block 3668, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Josh Rinesmith.

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

103-05-A

APPLICANT – Rothkrug, Rothkrug, Spector, LLP, for Main Street Make Over 2, Incorporated, owner.

SUBJECT – Application April 20, 2010 – Application to reopen pursuant to a court remand (Appellate Division) for a determination of whether the Department of Buildings issued a permit in error based on alleged misrepresentations made by the owner during the permit application process.

PREMISES AFFECTED – 366 Nugent Street, southwest corner of the intersection of Nugent Street and Spruce Street, Block 2284, Lot 44, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Todd Dale and Marcus Marino.

For Opposition: Lisa Orrantia.

ACTION OF THE BOARD – Laid over to June 15, 2010, at 10 A.M., for continued hearing.

51-06-BZ

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

SUBJECT – Application February 4, 2010 – Amendment of a variance (§72-21) which permitted a Physical Culture Establishment, contrary to §32-00, and a dance studio (Use Group 9), contrary to §32-18. The amendment seeks to enlarge the floor area occupied by the PCE. C1-2/R2 zoning district

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

COMMUNITY BOARD #1Q

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 25, 2010, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

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.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application under ZR § 11-332, to permit an extension of time to complete construction and obtain a certificate of occupancy for two four-story semi-detached residential buildings 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*, with a continued hearing on April 27, 2010, and then to decision on May 11, 2010; and

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

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

WHEREAS, the subject site consists of two contiguous zoning lots located on the east side of 144th Street, between Hillside Avenue and 88th Avenue; and

WHEREAS, the subject site has 50 feet of frontage along 144th Street, a depth of 100 feet, and a total lot area of 5,000 sq. ft.; and

WHEREAS, each zoning lot is proposed to be developed with a four-story eight-family semi-detached residential building, for a total of 16 dwelling units (the “Proposed Development”); and

WHEREAS, the Proposed Development complies with the former R6 zoning district parameters; and

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WHEREAS, however, on September 10, 2007 (hereinafter, the “Enactment Date”), the City Council voted to adopt the Jamaica Plan Rezoning, which rezoned the site from R6 to R5; and

WHEREAS, because the Department of Buildings (“DOB”) did not find that work on the foundations was completed as of the Enactment Date, the applicant filed a request to continue construction pursuant to ZR § 11-331, which authorizes the Board to grant a six-month extension of time to complete required foundation work upon a finding that excavation had been completed and substantial progress made on foundations as of the Enactment Date; and

WHEREAS, on April 1, 2008, under BSA Cal. Nos. 231-07-BZY and 232-07-BZY, the Board determined that excavation had been completed and substantial progress made on foundations as of the Enactment Date and granted a six-month extension of time to complete the required foundation work under ZR § 11-331; and

WHEREAS, the applicant has submitted the following documentation to establish that the foundations were completed within six months of the Board’s grant pursuant to ZR § 11-331: (1) a foundation survey dated September 23, 2008 showing completed foundations on both Lot 6 and Lot 7; (2) concrete pour tickets reflecting that all required concrete was poured as of September 15, 2008; and (3) photographs dated September 24, 2008 showing completed foundations; and

WHEREAS, pursuant to ZR § 11-331, however, subsequent to the rezoning of a property, only two years are allowed for completion of construction and to obtain a certificate of occupancy; and

WHEREAS, accordingly, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-332, which authorizes the Board to grant an extension of time to complete construction for a “major development” that was previously authorized under a grant for an extension pursuant to ZR § 11-331; 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 . . . three terms of not more than two years each for a major 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 Board notes that the subject site is a “major development” pursuant to ZR § 11-31(c)(2) because it involves the construction of two buildings on contiguous zoning lots that have been planned as a unit and which are non-complying as a result of an amendment to the Zoning

Resolution; and

WHEREAS, as noted in the previous resolution, New Building Permit Nos. 402614701 and 402614694 (hereinafter, the “NB Permits”) were lawfully issued by DOB on August 9, 2007 and August 16, 2007, respectively, permitting the construction of the Proposed Development prior to the Enactment Date; and

WHEREAS, subsequent to the previous grant the applicant renewed the NB Permits, which remained in effect until the expiration of the two-year term for construction; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

WHEREAS, the Board also observes that the work to be measured under ZR § 11-332 must be performed after the issuance of the permit; and

WHEREAS, similarly, the expenditures to be assessed under ZR § 11-332 are those incurred after the permit is issued; and

WHEREAS, accordingly, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant, and directed the applicant to exclude pre-permit expenditures; and

WHEREAS, in written statements and testimony, the applicant represents that, since the issuance of the NB Permits, substantial construction has been completed and substantial expenditures were incurred; and

WHEREAS, the applicant states that work on the Proposed Development subsequent to the issuance of the permits includes: 100 percent of the excavation; 100 percent of the shoring; and installation of 100 percent of the footings and foundation; and

WHEREAS, in support of this statement, the applicant has submitted the following: a construction schedule detailing the work completed since the issuance of the NB Permits; a breakdown of the construction costs by line item and percent complete; concrete pour tickets; a foundation survey; copies of cancelled checks; and photographs of the site; 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 expenditure paid for the development is \$165,924, or 12 percent, out of the \$1,423,224 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, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since the issuance of the permits; and

WHEREAS, therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR

MINUTES

§ 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 Permit Nos. 402614701-01-NB and 402614694-01-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 May 11, 2012.

Adopted by the Board of Standards and Appeals, May 11, 2010.

43-08-A

APPLICANT – Akerman Senterfitt, for Bell Realty, owner.
SUBJECT – Application February 28, 2008 – Proposed construction in the bed of mapped street contrary to the General City Law Section 35 . R2A zoning district.

PREMISES AFFECTED – 144-25 Bayside Avenue, between 29th Road and Bayside Avenue, Block 4786, Lot 41 (tent) 43, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Calvin Wong.

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

3-10-A - 4-10-A

APPLICANT – Akerman Senterfitt, for Bell Realty, owner.
SUBJECT – Application January 5, 2010 – Proposed construction in the bed of mapped street contrary to the General City Law Section 35 . R2A zoning district.

PREMISES AFFECTED – 144-25 Bayside Avenue and 29-46 145th Street, between 29th Road and Bayside Avenue, Block 4786, Lot 41 (tent) 48, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Calvin Wong.

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

193-09-A

APPLICANT – Slater & Beckerman, LLP, for Margaret Sausa, owner.

SUBJECT – Application June 11, 2009 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R5 Zoning district . R4-1 Zoning district.

PREMISES AFFECTED – 78-46 79th Place, west side of 79th Place, between Myrtle Avenue and 78th Avenue, Block 3828, Lot 73, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Calvin Wong.

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

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.

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 25, 2010, at 10 A.M., for decision, hearing closed.

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 – None.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to May 25, 2010, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, MAY 11, 2010
1:30 P.M.**

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

ZONING CALENDAR

214-07-BZ

CEQR #08-BSA-017X

APPLICANT – Sheldon Lobel, P.C., for 3210 Riverdale Associates, LLC, owner.

SUBJECT – Application September 18, 2007 – Variance (§72-21) to allow a public parking garage and increase the maximum permitted floor area in a mixed residential and community facility building, contrary to §22-10 and §24-162. R6 zoning district.

PREMISES AFFECTED – 3217 Irwin Avenue, aka 3210 Riverdale Avenue, north side of West 232nd Street, Block 5759, Lots 356, 358, 362, Borough of Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Maryann Barchuk.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated August 14, 2007, acting on Department of Buildings Application No. 201110831, reads in pertinent part:

“Transient parking at the premises is not permitted in an R6 zoning district pursuant to ZR 22-10;” and

WHEREAS, the decision of the Bronx Borough Commissioner, dated April 29, 2010, acting on Department of Buildings Application No. 201110831, reads in pertinent part:

“Proposed development exceeds maximum floor area permitted by ZR 24-162;” and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R6 zoning district, the construction of an 11-story mixed-use residential/community facility building with transient parking, which does not conform to district use regulations and does not comply with floor area requirements, contrary to ZR §§ 22-10 and 24-162, and which ; and

WHEREAS, a public hearing was held on this application on September 22, 2009 after due notice by publication in *The City Record*, with continued hearings on November 24, 2009, February 9, 2010 and March 23, 2010, and then to decision on May 11, 2010; and

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

WHEREAS, Community Board 8, Bronx, recommends disapproval of this application, citing concerns that the proposed parking will have a detrimental effect on the surrounding neighborhood, and that the applicant should have been aware of the condition of the retaining wall along the western property line prior to the commencement of the project; and

WHEREAS, a representative for New York State Assembly Member Jeffrey Dinowitz provided testimony in opposition to this application; and

WHEREAS, certain residents of the community provided testimony in opposition to this application; and

WHEREAS, the subject site is bounded by Riverdale Avenue to the west, West 232nd Street to the south, and Irwin Avenue to the east, within an R6 zoning district; and

WHEREAS, the site has 190 feet of frontage on Irwin Avenue, a depth that ranges from approximately 67 feet to approximately 85 feet, and a total lot area of 14,224 sq. ft.; and

WHEREAS, the applicant states that the site is divided into two separate zoning lots for purposes of determining compliance with the bulk regulations of the Zoning Resolution, with a corner lot portion of the site extending 100 feet north from West 232nd Street, and the remaining portion of the site considered an interior through lot; and

WHEREAS, the site is currently vacant, however construction has commenced on the as-of-right building envelope for the proposed 11-story mixed-use residential/community facility building; and

WHEREAS, the proposed building will have a three-level parking garage with a total of 150 spaces, including 46 accessory residential spaces, 30 accessory community facility spaces, 49 non-accessory spaces for monthly-only rental, and 25 non-accessory spaces for transient use; and

WHEREAS, transient parking is not permitted in the subject R6 zoning district, thus the applicant seeks a use variance; and

WHEREAS, further, the proposed building will have the following non-compliances: a floor area of 80,230 sq. ft. (56,902 sq. ft. is the maximum permitted); and an FAR of 5.63 (4.0 FAR is the maximum permitted); and

WHEREAS, the applicant represents that the proposed building envelope is permitted as-of-right, but that the proposed transient parking use triggers the bulk waiver because all above-grade space in the garage must be counted as zoning floor area; and

WHEREAS, the Board notes that the 25 transient parking spaces will be located below grade, and as such it is only the accessory parking spaces and the non-accessory monthly-only spaces, which are both permitted as-of-right, which will be located above grade; and

WHEREAS, the applicant states that pursuant to ZR § 12-10, since at least one parking space in the proposed building is non-accessory, the entire parking structure is classified as a public parking garage such that all above-grade space is

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counted as floor area regardless of the location of the transient spaces within the facility; and

WHEREAS, the applicant further states that the transient parking use therefore increases the floor area of the proposed building by 24,390 sq. ft. because Parking Level 2 and 3 are located above-grade and must be included in the zoning floor area calculations; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site with a complying development: (1) the site is encumbered with a significant slope; (2) the presence of decomposed bedrock on the site; (3) the presence of a retaining wall along the western lot line; and (4) the site's groundwater conditions; and

WHEREAS, as to the change in grade, the applicant states that there is a difference in elevation at the site of approximately 35 feet between the southwest and southeast corners of the property and in excess of 50 feet between the northeast and northwest corners of the property; and

WHEREAS, the applicant represents that, due to these differences in elevation at the site, the residential portion of the building must be located at or above the Riverdale Avenue grade level in order to provide all apartments with access to legally required light and air; and

WHEREAS, as to the underlying bedrock conditions, the applicant states that the eastern portion of the site was underlain by decomposed bedrock along Irwin Avenue; and

WHEREAS, specifically, the applicant provided an engineering report (the "Engineering Report") which states that the site is underlain by severely decomposed bedrock with a nearly vertical dip which allowed water to run into the bedrock veins and decompose the bedrock to a depth of eight to ten feet; and

WHEREAS, the Engineering Report states that the decomposed bedrock conditions required excavation to a depth of ten to 15 feet below the Irwin Avenue grade level to ensure the building's foundation would rest on solid bedrock; and

WHEREAS, the applicant represents that the presence of the decomposed bedrock ultimately required the excavation and removal of approximately 1,270 cubic yards of additional soil and 5,080 cubic yards of additional rock, at an increased cost of approximately \$2 million; and

WHEREAS, the applicant states that the entire site was excavated to competent bedrock of approximate uniform depth due to the complexity of constructing the building with an alternative foundation system; and

WHEREAS, the applicant represents that the costs associated with the additional excavation required the construction of a parking/foundation level below the Irwin Avenue grade to fill the void previously occupied by the decomposed rock; and

WHEREAS, the applicant states that the additional parking level was necessary so that the residential portion of the building could remain at the Riverdale Avenue grade; and

WHEREAS, at hearing, the Board questioned whether an alternative foundation design could have been utilized to support a two-story parking garage at the site instead of excavating the entire site to a uniform depth and constructing a

third parking level; and

WHEREAS, in response, the applicant submitted a supplemental engineering report (the "Supplemental Report"), which analyzed the feasibility of three alternative foundation designs: (1) a foundation supported by auger cast piles; (2) a foundation supported by driven piles; and (3) a foundation built on spread footings with individual pits; and

WHEREAS, the Supplemental Report indicates that a foundation supported by auger cast piles would have been cost-prohibitive, as it would require an estimated 276 piles to support the proposed building at a total cost of approximately \$2.8 million, and extensive earth movement and re-grading would have been required at an additional cost of approximately \$300,000, as well as additional costs associated with a completely new foundation design; and

WHEREAS, the Supplemental Report further indicates that a foundation supported by driven piles would cost approximately 20 percent less than the auger cast pile foundation, but would still exceed the costs associated with the selected foundation design, and would create substantial risk to the surrounding structures due to the noise and vibrations that result from hammering the piles; and

WHEREAS, finally, the foundation built on spread footings was found to be impractical because it would result in a significant amount of over-excavation, as each individual footing pit would have to be excavated to competent bedrock before the footing could be poured and a pier constructed to support the foundation, and the pit would then have to be backfilled to enable construction equipment to be maneuvered throughout the site; and

WHEREAS, as to the retaining wall along the western lot line, the applicant states that once excavation had commenced and the base of the Riverdale Avenue retaining wall was exposed, it was discovered that a significant portion of the retaining wall had not been built on bedrock; and

WHEREAS, the applicant represents that the deeper excavation required by the underlying bedrock conditions necessitated significant underpinning to support the retaining wall, and that construction activity at the site was stopped for lengthy periods of time while the applicant worked with the Department of Transportation ("DOT") and the Department of Buildings ("DOB") to develop a plan to underpin the retaining wall and provide additional stabilization through a rock anchoring system; and

WHEREAS, the Engineering Report states that significant underpinning of the retaining wall to bedrock was required for approximately 105 feet of the wall's length, and a bedrock "bench" had to be cut beneath those portions of the retaining wall that were built on unsuitable soils and then brick between the top of the bedrock and the bottom of the retaining wall's footing; and

WHEREAS, the applicant states that DOB also required it to provide a 40-ft. access alley (filled with fill material) along the base of the retaining wall to enable access for maintenance and monitoring purposes, and the design of the building's foundation required revision to accommodate the increased lateral loads generated by the 40 feet of fill material; and

WHEREAS, as to the site's groundwater conditions, the

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Engineering Report states that the site has slow but continuous flow of groundwater from the north, west and south sides of the site, and that it is critical to channel the water away from behind the foundation walls to protect the foundation wall stability and maintain basement dryness; and

WHEREAS, the applicant states that, in order to address the site's groundwater flow, it was required to waterproof the cellar slab's underside with a vapor barrier and to install a drainage system to collect water and distribute it to a sump area where it can be pumped to the combined sewer in the street; and

WHEREAS, the applicant represents that the increased construction costs associated with the site's unique conditions totaled approximately \$2,467,489, and that the requested variance is necessary to offset these costs; and

WHEREAS, based upon the above, the Board finds that the site's change in grade, the presence of decomposed bedrock, the presence of a retaining wall along the western lot line, and the site's groundwater 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 initially submitted a feasibility study which analyzed: (1) an as-of-right building with 47 accessory residential parking spaces and 36 accessory community facility parking spaces for a total of 83 accessory spaces; and (2) a proposal with 23 accessory residential parking spaces, 17 accessory community facility parking spaces, and 110 non-accessory spaces for transient use; and

WHEREAS, the applicant concluded that the as-of-right scenario would not result in a reasonable return but that the scenario with 110 transient parking spaces would result in a reasonable rate of return; and

WHEREAS, at hearing, the Board directed the applicant to revise the financial analysis and to review lesser variance alternatives; and

WHEREAS, in response, the applicant provided interim proposals with a reduced number of transient parking spaces, and ultimately submitted a feasibility study which analyzed the proposed building with 46 accessory residential spaces, 30 accessory community facility spaces, 49 non-accessory spaces for monthly-only rental, and 25 non-accessory spaces for transient use; and

WHEREAS, the study concluded that that the proposed scenario would realize a reasonable return and a further reduced number of transient spaces could not generate the income required to offset the costs incurred in addressing the site's physical conditions; and

WHEREAS, based upon the above, 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 zoning 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 states that the proposed variance only seeks to permit the use of excess space in the three-story garage for transient parking; and

WHEREAS, the applicant further states that the requested floor area waiver is only triggered because the accommodation of transient parking results in the inclusion of all above grade space in the calculations of zoning floor area, and that otherwise the proposed building fully complies with all bulk regulations for the R6 zoning district; and

WHEREAS, the applicant represents that the surrounding neighborhood is characterized by semi-detached and attached homes as well as several large multi-family residential buildings; and

WHEREAS, specifically, the applicant submitted a 400-ft. radius diagram reflecting that there is a seven-story residential building located directly across Riverdale Avenue from the site, and two 12-story residential buildings located one block south of the subject site; and

WHEREAS, the Board notes that there will be no signage associated with the parking garage use located on the exterior of the building; and

WHEREAS, the applicant represents that the proposal will not adversely affect traffic conditions along Irwin Avenue or the surrounding street network; and

WHEREAS, the applicant states that the majority of the parking at the site will be for accessory and monthly parking, which will have a limited effect on traffic in the surrounding area; and

WHEREAS, further, the applicant submitted a trip generation analysis which indicates that the monthly and transient parking uses will generate between 11 and 23 vehicle trips per hour, which is substantially fewer vehicle trips than that generated by the building's accessory parking spaces; and

WHEREAS, the trip generation analysis submitted by the applicant further indicated that the traffic volume generated by the transient and monthly parking uses will account for only five to six percent of the total traffic volume for the intersection of Irwin Avenue and West 232nd Street during the morning, midday, and evening peak hours; thus, the increase in volume attributed to the transient and monthly uses will not have a noticeable effect on the traffic levels at this intersection; and

WHEREAS, the applicant also submitted a traffic study for review and approval by DOT, to determine whether a curb cut for the proposed parking garage would adversely affect traffic conditions on Irwin Avenue and the surrounding roadways; and

WHEREAS, DOT approved the parking study and accepted the location of the curb cut, finding that the placement of the curb cut for the proposed building with 150 parking spaces would not create significant traffic circulation or safety impacts; and

WHEREAS, the applicant represents that the proposed public parking garage would be permitted pursuant to a Department of City Planning ("DCP") special permit under ZR § 74-511 if the subject site were located in a C1-1 zoning district; and

WHEREAS, specifically, the applicant represents that the subject site satisfies the requisite findings of the DCP special

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permit, in that the use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas, and the garage has adequate reservoir space at the vehicular entrance to accommodate ten vehicles; and

WHEREAS, at hearing, the Board questioned how the proposed parking garage at the site would operate; and

WHEREAS, in response, the applicant states that the garage will have a total capacity of 150 parking spaces, with 43 spaces located on Parking Level 1, 39 spaces on Parking Level 2 and 68 spaces on Parking Level 3; and

WHEREAS, the applicant further states that the garage will be operated on a fully attended basis and will utilize a total of 30 lifts when operating at maximum capacity, with vehicles entering the parking garage and pulling into the ten-car reservoir lane on Parking Level 2 while they await attendant service; and

WHEREAS, the applicant further states that 25 of the spaces located on Parking Level 1 (the lowest level) will be designated solely for transient use with the remaining spaces on that level utilized for accessory residential spaces, Parking Level 2 will be used solely for storing accessory residential and non-accessory monthly parking, which will limit maneuvering into these spaces and reduce any resulting congestion in the reservoir and exit lanes, and Parking Level 3 will be used for accessory community facility and long-term parking; and

WHEREAS, at hearing, the Board also questioned whether it was feasible to rent the non-accessory spaces at the proposed site on a monthly-only basis and requested that the applicant provide a survey of parking garages and lots in the surrounding area to determine the number of garages renting spaces on a monthly-only basis; and

WHEREAS, in response, the applicant submitted a survey of more than 30 parking garages and lots in the Western Bronx and Upper Manhattan, reflecting that all but two of the garages surveyed offer hourly and daily parking in addition to monthly parking; and

WHEREAS, the applicant states that the two garages that offer monthly-only parking are distinguishable from the subject site in that one such garage is a self-parking facility that does not provide attendant service and the other garage is located within a warehouse structure that also contains auto body and auto repair uses; and

WHEREAS, the applicant represents that the lack of any other monthly-only parking facilities in the area establishes that a scenario with monthly-only parking is not feasible for the subject site and underscores the difficulty the applicant would have in securing an operator for such a facility; 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 physical conditions; and

WHEREAS, as noted above, the applicant initially proposed to construct a building with 23 accessory residential parking spaces, 17 accessory community facility parking

spaces, and 110 non-accessory spaces for transient use; and

WHEREAS, at the Board's direction, the applicant revised its proposal several times to minimize the requested number of transient parking spaces, ultimately providing the current proposal with 46 accessory residential spaces, 30 accessory community facility spaces, 49 non-accessory spaces for monthly-only rental, and 25 non-accessory spaces for transient use; and

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

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

WHEREAS, the project is classified as an unlisted action pursuant to 6 NYCRR Part 617.12 (aj) and 617.5.

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") 08BSA017X, dated September 17, 2007; 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 determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R6 zoning district, the construction of an 11-story mixed-use residential/community facility building with transient parking, which does not conform to district use regulations and does not comply with floor area requirements; *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 April 7, 2010" - thirteen (13) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a maximum total floor area of 80,230 sq. ft. (5.63 FAR); and 150 parking spaces, as indicated on the BSA-approved plans;

THAT the parking garage shall be limited to a total of 150 parking spaces, including 46 accessory residential spaces,

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30 accessory community facility spaces, 49 non-accessory spaces for monthly-only rental, and 25 non-accessory spaces for transient use;

THAT the 25 transient parking spaces shall be located on Parking Level 1 (the lowest level), in accordance with the BSA-approved plans;

THAT there shall be no signage associated with the parking garage use on the exterior of the building;

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, May 11, 2010.

272-09-BZ

CEQR #10-BSA-022Q

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 second and third floors in an existing three-story building. C5-2.5 (M.D) 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 A. Chester.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Superintendent, dated January 25, 2010, acting on Department of Buildings Application No. 410053230, reads in pertinent part:

“Physical culture establishment in zoning district C4-2...is not permitted as per ZR Section 73-36.

Therefore must be referred to Board of Standards and Appeals for special permit;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to allow, on a site within a C4-2 zoning district, the re-establishment of a special permit for continued use of

a physical culture establishment (PCE) in the cellar, first floor and second floor of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 2, 2010 after due notice by publication in *The City Record*, with a continued hearing on April 13, 2010, and then to decision on May 11, 2010; and

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

WHEREAS, Community Board 1, Queens, recommends approval of the application, with the following conditions: (1) the applicant obtains a valid certificate of occupancy; (2) the PCE satisfies all requirements of the Americans with Disabilities Act and Local Law 58; and (3) the applicant timely renews the grant prior to its expiration; and

WHEREAS, the Fire Department provided testimony requesting that the applicant be granted a short term and time limits for obtaining a certificate of occupancy and public assembly permits, to ensure that the subject special permit is timely renewed; and

WHEREAS, the subject site is located on the west side of Steinway Street, between 34th Avenue and 35th Avenue, within a C4-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since September 19, 1995 when, under BSA Cal. No. 138-93-BZ, the Board granted a special permit for the legalization of a PCE in the cellar, first floor and second floor of a two-story commercial building, which expired on September 19, 2000; and

WHEREAS, the applicant represents that Lucille Roberts has operated the site as a PCE continuously since the time of the original grant; and

WHEREAS, the applicant now seeks to re-establish the special permit; and

WHEREAS, the applicant represents that the special permit was not timely renewed due to administrative oversight; and

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

WHEREAS, the PCE occupies a total of 8,390 sq. ft. of floor area on the first floor and second floor and 4,195 sq. ft. of additional floor space in the cellar; and

WHEREAS, the PCE is operated as Lucille Roberts; and

WHEREAS, the proposed hours of operation are: Monday through Thursday, from 8:00 a.m. to 9:30 p.m.; Friday, from 9:00 a.m. to 8:30 p.m.; and Saturday and Sunday, from 9:00 a.m. to 3:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

WHEREAS, in response to concerns raised by the Community Board, the applicant represents that the PCE is in compliance with the Americans with Disabilities Act and Local Law 58/87; and

WHEREAS, at hearing, the Board questioned whether the site complies with C4 district signage regulations and

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directed the applicant to remove the flagpoles located on the roof of the building; and

WHEREAS, in response, the applicant submitted a signage analysis reflecting that the site is in compliance with the C4 district regulations, and states that it has hired a contractor to remove the flagpoles from the building; and

WHEREAS, at hearing, the Board requested that the applicant confirm whether it was in compliance with the condition from the prior grant that all step aerobics classes be limited to the cellar of the building; and

WHEREAS, in response, the applicant represents that all aerobics classes are held in the cellar; and

WHEREAS, at hearing, the Board questioned whether the applicant received Department of Buildings' ("DOB") sign-off on the building's sprinkler system; and

WHEREAS, in response, the applicant states that the building is sprinklered throughout, and submitted a copy of the DOB application to install the sprinkler system, but notes that DOB has not signed-off on the installation; 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.10BSA022Q, dated September 23, 2009; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-2 zoning district, the continued operation of a physical culture establishment in the cellar, first floor and second floor of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received February 25, 2010"-Six (6) sheets; and *on further condition*:

THAT the term of this grant shall expire on May 11, 2015;

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 C4 district regulations;

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

THAT a new certificate of occupancy shall be obtained by November 11, 2010;

THAT DOB shall review and approve the existing sprinkler system;

THAT the flagpoles shall be removed from the roof of the building;

THAT public assembly permits shall be obtained and renewed as required;

THAT the use of the site shall comply with all relevant provisions of the Noise Code;

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, May 11, 2010.

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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.

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 9, 2009, acting on Department of Buildings Application No. 320082094, reads in pertinent part:

- “1. Proposed floor area is contrary to ZR 23-141.
2. Proposed open space ratio is contrary to ZR 23-141.
3. Proposed rear yard is contrary to ZR 23-47;”
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, open space ratio and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on January 12, 2010, after due notice by publication in *The City Record*, with continued hearings on February 9, 2010, March 9, 2010, April 13, 2010 and April 27, 2010, and then to decision on May 11, 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 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of East 28th Street, between Avenue M and Avenue N, within an R2 zoning district; and

WHEREAS, the site consists of two lots (Lots 73 and 75), each occupied by a semi-detached single-family home, which are proposed to be merged into one lot (Tentative Lot 73) with a single-family detached home; and

WHEREAS, the subject site has a total lot area of 5,500 sq. ft., and is occupied by two semi-detached single-

family homes with a total floor area of 3,117 sq. ft. (0.57 FAR); and

WHEREAS, the site 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 3,117 sq. ft. (0.57 FAR) to 5,743 sq. ft. (1.04 FAR); the maximum permitted floor area is 2,750 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of approximately 50 percent (150 percent is the minimum required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 22’-6” (a minimum rear yard depth of 30’-0” is required); and

WHEREAS, the applicant originally proposed a home with a floor area of 5,903 sq. ft. (1.07 FAR), an open space ratio of 48 percent, and a rear yard with a minimum depth of 21’-0”;

WHEREAS, at hearing, the Board raised concerns regarding the size of the proposed home, specifically as to the home’s FAR and height, and whether it was in character with the surrounding neighborhood; and

WHEREAS, in response, the applicant reduced the size of the home to 1.04 FAR, reduced the height of the home, and provided evidence to establish that the home fits within the context of the surrounding area; and

WHEREAS, specifically, the applicant states that seven percent of homes on the subject block within a 100-ft. radius of the site have FARs greater than 1.04, and the applicant provided evidence that the home located to the rear of the site at 1349 East 27th Street has an FAR of 1.18, the home located on the subject block, at 2710 Avenue M has an FAR of 1.24, and the home located at 1375 East 27th Street has a floor area of 7,260 sq. ft.; and

WHEREAS, the applicant also submitted an extended streetscape showing that the height of the proposed home will be the same as several houses on the subject block, and will be 18 inches shorter than at least one other home on the block; 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

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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 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 April 20, 2010"-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 5,743 sq. ft. (1.04 FAR); an open space ratio of 50 percent; a perimeter wall height of 22'-10"; a side yard with a minimum width of 8'-0" along the northern lot line; a side yard with a minimum width of 5'-0" along the southern lot line; a rear yard with a minimum depth of 22'-6"; and one parking space, 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, May 11, 2010.

308-09-BZ

APPLICANT – Jorge F. Canepa, for Joseph Ursini, owner.
SUBJECT – Application November 20, 2009 – Variance (§72-21) to legalize a swimming pool located partially within a front yard and to allow two parking spaces to be located between the street line and the building street wall, contrary to §23-44 and §25-622. R3X zoning district.

PREMISES AFFECTED – 366 Husson Street, corner between Husson Street & Bedford Avenue, Block 3575, Lot 24, Borough of Staten Island

COMMUNITY BOARD #2SI

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, May 11, 2010.

6-09-BZ

APPLICANT – Rampulla Associate Architects, for Joseph Romano, owner.

SUBJECT – Application January 2, 2009 – Variance (§72-21) to permit the legalization of an existing Automotive Repair Facility (UG 16B), contrary to ZR §32-10. C4-1 (Special South Richmond Development District & Special Growth Management District) zoning district.

PREMISES AFFECTED – 24 Nelson Avenue, south side from the corner of Nelson Avenue & Giffords Glenn, Block 5429, Lot 29 & 31, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Phillip Rampulla and Jim Hinaman.

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

14-09-BZ

APPLICANT – Eric Palatnik, P.C., for Orenstein Brothers, owner; ExxonMobil Corporation, lessee.

SUBJECT – Application January 26, 2009 – Special Permit (§73-211) to allow an automotive service station with an accessory convenience store and automotive laundry (UG 16B). C2-1/R3-2 zoning district.

PREMISES AFFECTED – 2294 Forest Avenue, Southeast intersection of Forest Avenue and South Avenue, Block 1685, Lot 15, 20, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik and Hiram Rothkrug.

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

189-09-BZ

APPLICANT – Eric Palatnik, P.C., for Mohamed Adam, owner; Noor Al-Islam Society, lessee.

SUBJECT – Application June 10, 2009 – Variance (§72-21) and waiver to the General City Law Section 35 to permit the legalization of an existing mosque and Sunday school (*Nor Al-Islam Society*), contrary to use and maximum floor area ratio (§§42-00 and 43-12) and construction with the bed of a mapped street. M3-1 zoning district.

PREMISES AFFECTED – 3067 Richmond Terrace, north side of Richmond Terrace, west of Harbor Road, Block 1208, Lot 5, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik and Hiram Rothkrug.

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

MINUTES

190-09-A

APPLICANT – Eric Palatnik, P.C., for Mohamed Adam, owner; Noor Al-Islam Society, lessee.

SUBJECT – Application June 10, 2009 – Variance (§72-21) and waiver to the General City Law Section 35 to permit the legalization of an existing mosque and Sunday school (*Nor Al-Islam Society*), contrary to use and maximum floor area ratio (§§42-00 and 43-12) and construction with the bed of a mapped street. M3-1 zoning district.

PREMISES AFFECTED – 3067 Richmond Terrace, north side of Richmond Terrace west of Harbor Road, Block 1208, Lot 5, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik and Hiram Rothkrug.

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

192-09-BZ

APPLICANT – Richard Lobel, for Leon Mann, owner.

SUBJECT – Application June 16, 2009 – Variance (§72-21) to allow for the construction of a department store (UG10), contrary to use regulations (§§22-00, 32-00). R6 and R6/C2-3 zoning districts.

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

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Richard Lobel.

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

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

19-10-BZ / 62-10-A

APPLICANT – Akerman Senterfitt LLP, for Oak Point Property LLC, owner.

SUBJECT – Application February 3, 2010 – Special Permit (ZR§ 73-482) to allow for an accessory parking facility in excess of 150 spaces, and proposed construction not fronting

a legally mapped street, contrary to General City Law Section 36. M3-1 zoning district.

PREMISES AFFECTED – 100 Oak Point Avenue, south of the Bruckner Expressway, west of Barry Street and Oak Point Avenue, Block 2604, Lot 174, Borough of Bronx.

COMMUNITY BOARD #2BZX

APPEARANCES –

For Applicant: Calvin Wong.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

20-10-BZ

APPLICANT – Francis R. Angelino, Esq., for Lerad Company, owner; Soul Cycle East 83rd Street, LLC, lessee.

SUBJECT – Application February 8, 2010 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment (*Soul Cycle*) on the ground floor of an existing six-story building. C1-9 zoning district.

PREMISES AFFECTED – 1470 Third Avenue, a/k/a 171-173 East 83rd Street, northwest corner of East 83rd Street and Third Avenue, Block 1512, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Francis R. Angelino.

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 25, 2010, at 1:30 P.M., for decision, hearing closed.

27-10-BZ

APPLICANT – Eric Palatnik, P.C., for Vadim Rabinovich, owner.

SUBJECT – Application March 1, 2010 – Special Permit (§73-622) for the enlargement of a single family home, contrary to open space, lot coverage and floor area (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 117 Norfolk Street, between Shore Parkway and Oriental Boulevard, Block 8757, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Mary Ann Okin, Susan Klapper, Judy Baron and Georgeann DiSomma.

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

MINUTES

30-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Susan Shalitzky, owner.

SUBJECT – Application March 8, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to open space and floor area (§23-141) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 1384 East 22nd Street, west side of East 22nd Street, between Avenues M and N, Block 7657, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

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

Jeff Mulligan, Executive Director

Adjourned: P.M.