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329-09-BZ

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330-09-BZ

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331-09-BZ

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332-09-BZ

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333-09-BZ

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334-09-A

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1-10-A

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2-10-BZ

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3-10-A

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4-10-A

29-45 145th Street, 145th Street between 29th Road and Bayside Avenue., Block 4786, Lot(s) 41 (tent) 52, Borough of **Bronx, Community Board: 7**. Construction within and not fronting the mapped street, contrary to GCL. R2A district.

5-10-BZ

205 Spencer Street, East side of Spencer Street between Willoughby and Dekalb Avenues., Block 1763, Lot(s) 12, Borough of **Brooklyn, Community Board: 3**. Final Determination of the DOB R6 district.

6-10-BZ

2147 Mill Avenue, Northeast side of Mill Avenue between Avenue U and Strickland Avenue., Block 8463, Lot(s) 65, Borough of **Brooklyn, Community Board: 18**. Variance to legalize existing restaurant, contrary to use regulations. R2 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

FEBRUARY 2, 2010, 10:00 A.M.

APPEALS CALENDAR

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 2, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

16-36-BZ

APPLICANT – Sheldon Lobel, P.C., for Cumberland Farms, Incorporated, owner
SUBJECT – Application October 27, 2009 – Extension of Term (§11-411) for the continued operation of an existing Gasoline Service Station (Gulf) which expired on November 1, 2007; Waiver of the Rules. C2-2/R5 zoning district.
PREMISES AFFECTED – 1885 Westchester Avenue, southeast corner of the intersection between Westchester Avenue and White Plains Road, Block 3880, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

111-71-BZ

APPLICANT – Walter T. Gorman, P.E., for Motiva Enterprises LLC, owner; Erol Bayrdktar, lessee.
SUBJECT – Application December 15, 2009 – Extension of Time to obtain a Certificate of Occupancy for a Gasoline Service Station (Shell) which expired on October 28, 2009; Waiver of the Rules. C2-2/R3-2 zoning district.
PREMISES AFFECTED – 185-25 North Conduit Avenue, north west corner of Springfield Boulevard, Block 13094, Lot p/o 63, Borough of Queens.

COMMUNITY BOARD #12Q

35-09-BZ

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

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

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

COMMUNITY BOARD #11M

252-09-A

APPLICANT – Marc A.Chiffert, P.E., for Gani Realty Corporation, owner.

SUBJECT – Application September 9, 2009 – Appeal challenging the NYC Fire Department determination that the proposed building being constructed on a private street less than 38ft wide does not provide a proper fire access road for Fire Department emergency vehicles. R8 zoning district.

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

COMMUNITY BOARD #15BX

306-09-A

APPLICANT – New York City Department of Buildings
OWNER – Luis Cuji

SUBJECT – Application November 9, 2009 – An appeal filed by the Department of Buildings seeking to revoke the Certificate of Occupancy as it was issued in error due to failure to comply with various provisions of the Zoning Resolution, Building Code and Multiple Dwelling Law. R5 zoning district.

PREMISES AFFECTED – 37-48 60th Street, West side of 60th Street 38th and 37th Avenues. Block 1214, Lot 84. Borough of Queens.

COMMUNITY BOARD #1Q

312-09-A thru 323-09A

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

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

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

COMMUNITY BOARD #6BK

DISMISSAL CALENDAR

184-07-BZ & 185-07-BZ

APPLICANT – NYC Board of Standards and Appeals

OWNER: Domenick Licata

SUBJECT – Application for dismissal for lack of prosecution.

PREMISES AFFECTED – 32 Fountain Avenue, west side, between Atlantic Avenue and Wells Street, Block 4154, Lot 61, Borough of Brooklyn.

COMMUNITY BOARD #5BK

CALENDAR

255-08-BZ & 256-08-BZ

APPLICANT – NYC Board of Standards and Appeals

OWNER: Moustafa Gouda

SUBJECT – Application for dismissal for lack of prosecution.

PREMISES AFFECTED – 1994-1996 Madison Avenue, west side of Madison Avenue between East 127th and East 128th Streets, Block 1752, Lot 16, 116, Borough of Manhattan.

COMMUNITY BOARD #11M

with Petrus Avenue, Block 5595, Lot 11, Borough of Staten Island.

COMMUNITY BOARD #3SI

Jeff Mulligan, Executive Director

FEBRUARY 2, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 2, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

234-09-BZ

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

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

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

COMMUNITY BOARD # 1Q

272-09-BZ

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

SUBJECT – Application September 24, 2009 – Special Permit (§73-36) to legalize the operation of an existing physical culture establishment on the cellar, first and second floors in an existing two-story building. The proposal is contrary to ZR §32-10. C4-2 zoning district.

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

COMMUNITY BOARD #1Q

294-09-BZ

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

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

PREMISES AFFECTED – 3768 Richmond Avenue, west side of Richmond Avenue, 200' south of the intersection

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JANUARY 12, 2010
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

615-57-BZ

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

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

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

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Joshua Rinesmith.

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 and an extension of time to obtain a certificate of occupancy, which expired on January 22, 2009; and

WHEREAS, a public hearing was held on this application on December 12, 2009 after due notice by publication in *The City Record*, and then to decision on January 12, 2010; and

WHEREAS, the site is located on the north side of Horace Harding Expressway between Kissena Boulevard and 154th Place, in a C1-3 (R5B) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 14, 1958 when, under the subject calendar number, the Board granted a variance to permit the reconstruction of a gasoline service station with accessory services; and

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

WHEREAS, on January 9, 2007, the Board granted an extension of term, to expire on June 5, 2013; a condition of the grant was that a certificate of occupancy be obtained by October 9, 2007; and

WHEREAS, most recently, on July 22, 2008, the Board granted an extension of time to obtain a certificate of occupancy, which expired January 22, 2009; and

WHEREAS, the applicant states that it obtained two temporary certificates of occupancy subsequent to the previous grant, expiring August 12, 2009, but that the Department of Buildings will not grant them a final certificate of occupancy without an extension of time from the Board; and

WHEREAS, therefore, the applicant now seeks an additional six month extension of time to obtain a certificate of occupancy; and

WHEREAS, based upon the above, the Board finds that the requested extension of time to obtain a certificate of occupancy is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated January 14, 1958, so that as amended this portion of the resolution shall read: “to permit an extension of time to obtain a certificate of occupancy, to expire on July 12, 2010; *on condition* that all use and operations shall substantially conform to BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a certificate of occupancy shall be obtained by July 12, 2010;

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. 400032255)

Adopted by the Board of Standards and Appeals January 12, 2010.

217-96-BZ

APPLICANT – Joseph P. Morsellino, for Silverbell Investments, owner; Enterprise Rent a Car, lessee.

SUBJECT – Application September 15, 2009 – Extension of Term of a previously granted Variance (§72-21) for the continued use of an existing car rental facility (*Enterprise*) with accessory outdoor storage of rental cars (UG 8) which expired on October 7, 2007; Extension of Time to obtain a Certificate of Occupancy which expired on October 7, 1998; and Waiver of the Rules. C1-2/R-2 zoning district.

PREMISES AFFECTED – 165-01 Northern Boulevard, northeast corner 165th Street and Northern Boulevard, Block 53340, Lot 8, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

MINUTES

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for the continued use of a car rental facility (Use Group 8) which expired on October 7, 2007, and an extension of time to obtain a certificate of occupancy, which expired on October 7, 1998; and

WHEREAS, a public hearing was held on this application on November 17, 2009 after due notice by publication in *The City Record*, with a continued hearing on December 15, 2009, and then to decision on January 12, 2010; and

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

WHEREAS, Community Board 7, Queens, recommends approval of this application, with the following conditions: (1) the barbed wire be removed from the top of the fence surrounding the property; (2) the landscaping on the site be maintained; (3) garbage be stored in a locked bin on the site; (4) a “No Left Turn” exit sign be installed on the fencing for safety reasons; and (5) the fence be improved and maintained; and

WHEREAS, the subject site is located on the northeast corner of Northern Boulevard and 165th Street, within a C1-2 (R2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 7, 1997 when, under the subject calendar number, the Board granted a variance to permit the legalization and expansion of an existing car rental facility with accessory outdoor storage of rental cars (Use Group 8) located in a portion of a one-story commercial building, to expire on October 7, 2007; a condition of the grant was that a certificate of occupancy be obtained by October 7, 1998; and

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

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

WHEREAS, the applicant represents that a certificate of occupancy was not obtained by the stipulated date due to there being multiple open applications for the subject premises at DOB, which needed to be resolved; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant submitted a letter from the operator of the site, stating that: (1) the barbed wire will be removed from the top of the fence; (2) trees will be planted and maintained in the sidewalk planting areas at the front of the property, as per the BSA-approved plans; (3) the latch to the gate that encloses the garbage will be repaired; (4) a “No Left Turn” sign will be installed on the lot; and (5) the fence will be repaired; and

WHEREAS, in addition, the applicant submitted photographs reflecting that the barbed wire has been removed

and the fence has been repaired; and

WHEREAS, at hearing, the Board directed the applicant to confirm that the signage complies with C1 district regulations; and

WHEREAS, in response, the applicant submitted a revised plot plan including a post sign on the site, a revised signage analysis reflecting that the applicant’s signage complies with C1 district regulations, and permits issued by DOB for the signage on the site; and

WHEREAS, based upon the above, the Board finds that the requested extension of term and extension of time 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 October 7, 1997, so that as amended this portion of the resolution shall read: “to extend the term for ten years from October 7, 2007, to expire on October 7, 2017, and to permit an extension of time to obtain a certificate of occupancy, to expire on July 12, 2010; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans associated with the prior approval and to the drawings filed with this application marked ‘Received September 15, 2009’-(3) sheets and ‘November 20, 2009’-(1) sheet; and *on further condition*:

THAT the term of the grant shall expire on October 7, 2017;

THAT signage shall comply with C1 district regulations;

THAT a “No Left Turn” sign shall be installed on the site in accordance with the BSA-approved plans;

THAT all landscaping shall be provided and maintained in accordance with the BSA-approved plans;

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 July 12, 2010;

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. 420073039)

Adopted by the Board of Standards and Appeals, January 12, 2010.

195-99-BZ

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

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

MINUTES

zoning district.

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

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for a gasoline service station (Use Group 16) with accessory uses, which expired on November 10, 2009; and

WHEREAS, a public hearing was held on this application on November 17, 2009, after due notice by publication in *The City Record*, with a continued hearing on December 15, 2009, and then to decision on January 12, 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 6, Brooklyn, recommends approval of this application, with the following conditions: (1) tow trucks and other vehicles not be permitted to park on the street; and (2) paid parking be prohibited on the site; and

WHEREAS, the site is located on the southeast corner of the intersection at Atlantic Avenue and Henry Street, within an R6 zoning district; and

WHEREAS, the site is currently occupied by a gasoline service station (Use Group 16) with accessory uses; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 22, 1960 when, under BSA Cal. No. 741-59-BZ, the Board granted a variance to permit the construction and maintenance of a gasoline service station, lubricatorium, minor auto repairs, car wash, office, sales and storage and parking of motor vehicles for a term of 15 years; and

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

WHEREAS, most recently, on February 8, 2000, under the subject calendar number, the Board granted an application under ZR § 11-411 to re-establish the expired variance for a gasoline service station with accessory uses, to expire November 10, 2009; and

WHEREAS, the applicant now seeks to extend the term for an additional ten years; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant submitted an affidavit from the operator stating that there is no paid parking on the site and

that the tow trucks will be moved off of the street; and

WHEREAS, at hearing, the Board directed that the applicant to keep the dumpster closed and maintain the garbage collection area in good condition; and

WHEREAS, the Board also directed the applicant to revise the plans to reflect the actual location of the garbage collection area; and

WHEREAS, in response, the applicant submitted photographs reflecting that there is now a lid for the dumpster; and

WHEREAS, the applicant also revised the plans to reflect a new planter on the northwest corner of the site; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated February 8, 2000, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from November 10, 2009, to expire on November 10, 2019; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked ‘Received December 30, 2009’-(5) sheets; and *on further condition*:

THAT the term of this grant shall expire on November 10, 2019;

THAT there shall be no parking of tow trucks and other vehicles on the street;

THAT there shall be no paid parking on the site;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 320026627)

Adopted by the Board of Standards and Appeals, January 12, 2010.

136-01-BZ

APPLICANT – Eric Palatnik, P.C., for Cel-Net Holding, Incorporated, owner.

SUBJECT – Application April 25, 2008 – Extension of Time to complete construction and obtain a Certificate of Occupancy for a Variance (§72-21) which permitted non-compliance in commercial floor area and rear yard requirements; Amendment to reduce amount of commercial floor area; Waiver of the Rules. M1-4/R7A (Hunters Point Subdistrict) zoning district.

PREMISES AFFECTED – 11-11 44th Drive, Northside between 11th and 21st Streets. Block 447, Lot 13, Borough of Queens.

MINUTES

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of time to complete construction and obtain a certificate of occupancy, and an amendment to the previously-approved plans; and

WHEREAS, a public hearing was held on this application on December 8, 2009, after due notice by publication in *The City Record*, and then to decision on January 12, 2010; and

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

WHEREAS, the subject site is located on the north side of 44th Drive, between 11th Street and 21st Street, within an M1-4 (R7A) zoning district; and

WHEREAS, on June 11, 2002, the Board granted an application under ZR § 72-21, to permit, in an M1-4 zoning district, an increase in floor area for a wholesale office with accessory storage (Use Group 10) and the legalization of the existing encroachment into the rear yard; and

WHEREAS, substantial construction was to be completed by June 11, 2006 in accordance with ZR § 72-23; and

WHEREAS, on March 28, 2006, the Board granted an extension of time to complete construction and obtain a certificate of occupancy, to expire on March 28, 2008; and

WHEREAS, the applicant states that the owner no longer intends to construct the additional 23,788 sq. ft. of floor area approved under the original grant; and

WHEREAS, the applicant submitted revised plans indicating that the increase in floor area has been eliminated such that the total floor area of the proposed building will remain at 31,784 sq. ft., but represents that other construction may be necessary which requires the requested extension of time to complete construction; and

WHEREAS, the applicant also requests an extension of time to obtain a certificate of occupancy to reflect the legalization of the rear yard encroachment, and an amendment of the plans to reflect that the previously-approved enlargement will not be constructed; and

WHEREAS, based upon the above, the Board finds that the requested extension of time and amendment to the 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 June 11, 2002, so that as

amended this portion of the resolution shall read: “to permit an extension of time to complete construction and obtain a certificate of occupancy, to expire on July 12, 2010; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received October 30, 2009”- (6) sheets and *on further condition*:

THAT substantial construction shall be completed by July 12, 2010;

THAT a new certificate of occupancy shall be obtained by July 12, 2010;

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. 400838894)

Adopted by the Board of Standards and Appeals, January 12, 2010.

156-03-BZ

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

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

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

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Angela Smith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a previously granted variance to permit, within a C2-2 (R6) zoning district, the construction of a 17-story mixed-use commercial/community facility/residential building, which expired on December 13, 2009; and

WHEREAS, a public hearing was held on this application on December 15, 2009 after due notice by

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publication in *The City Record*, and then to decision on January 12, 2010; and

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

WHEREAS, the subject site is located on the north side of Northern Boulevard, between Prince Street and Farrington Street, within a C2-2 (R6) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since December 12, 2005 when, under the subject calendar number, the Board granted a variance to permit the proposed development of a 200-unit, 17-story mixed-use commercial/community facility/residential building, with ground level retail, second floor community facility space, and 229 accessory parking spaces in a three-level below-grade parking garage; and

WHEREAS, substantial construction was to be completed by December 13, 2009, in accordance with ZR § 72-23; and

WHEREAS, the applicant states that due to funding delays, additional time is necessary to complete the project; thus, the applicant now requests an extension of time to complete construction; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated December 13, 2005, so that as amended this portion of the resolution shall read: “to grant an extension of the time to complete construction for a term of two years, to expire on January 12, 2012; *on condition:*

THAT substantial construction shall be completed by January 12, 2012;

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. 401622669)

Adopted by the Board of Standards and Appeals, January 12, 2010.

197-05-BZ

APPLICANT – Marvin Mitzner, Esq., for B&E 813 Broadway Realty, owner.

SUBJECT – Application April 17, 2009 – Amendment to a variance (§72-21) to allow full commercial coverage on the ground floor and an increase in commercial FAR in a mixed use building. C6-1 zoning district.

PREMISES AFFECTED – 813/815 Broadway, west side of Broadway, 42’ south of East 12th Street, Block 563, Lots 33

& 34, Borough of Manhattan.

COMMUNITY BOARD #2M

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 reopening and an amendment to a previously granted variance which permitted the construction of an 11-story mixed-use building with ground floor commercial space and 40 dwelling units, which does not comply with residential FAR, open space ratio, height, setback, and dwelling count, contrary to ZR §§ 23-142, 33-432, and 23-22; and

WHEREAS, a public hearing was held on this application on July 28, 2009, after due notice by publication in *The City Record*, with continued hearings on August 25, 2009, September 15, 2009, October 20, 2009, and November 24, 2009, and then to decision on January 12, 2010; and

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

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

WHEREAS, the site is located on the west side of Broadway, between East 11th Street and East 12th Street, within a C6-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 1, 2008 when, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21, which permitted the construction of an 11-story mixed-use building with ground floor commercial space and 40 dwelling units, which does not comply with residential FAR, open space ratio, height, setback, and dwelling count, contrary to ZR §§ 23-142, 33-432, and 23-22; and

WHEREAS, the original approval reflected a residential FAR of 5.6, a commercial FAR of 0.4, a total FAR of 6.0, and a rear yard with a depth of 43’-11”;

WHEREAS, the applicant initially sought to amend the grant to permit (1) full lot coverage for the commercial use on the first floor and (2) an increase in the commercial FAR from 0.4 to 0.83 and total FAR from 6.0 to 6.43; and

WHEREAS, the applicant asserted that the changes were required due to an unforeseen increase in development costs relating to the need for a sub-cellar to accommodate accessory residential uses and a reduction in the commercial and residential rentable space due to the requirement for a second elevator; and

WHEREAS, specifically, the applicant asserted that the building was not marketable for residential use without an accessory gym, storage space, and recreational space for residents, thus the sub-cellar was required; and

WHEREAS, further, the applicant asserted that the

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addition of a sub-cellar would allow additional space on the cellar level to be dedicated to necessary storage for the first floor commercial use; and

WHEREAS, the applicant proposed to add the commercial floor area in order to compensate for the additional costs associated with adding a sub-cellar and a second elevator and for the loss of approximately 1,500 sq. ft. of rentable residential floor area attributed to the elevator; and

WHEREAS, in support of the request, the applicant submitted a financial analysis, testimony from a real estate broker, and information on purportedly comparable residential buildings with the proposed amenities; and

WHEREAS, during the hearing process, the Board stated that it did not find a nexus between the relief sought and the purported hardship; and

WHEREAS, specifically, the Board found the financial analysis and purported requirement for additional floor area and amenities unconvincing and that the cited residential buildings could be distinguished from the subject building; and

WHEREAS, the applicant revised the proposed cellar and sub-cellar plans and the financial analysis on multiple occasions; and

WHEREAS, the Board remained unconvinced that a need for additional commercial floor area had been substantiated and that the request reflected the minimum variance; and

WHEREAS, ultimately, the applicant revised the proposed plans to reflect a building with (1) no increase in the commercial floor area, (2) the addition of a second elevator, and (3) the addition of a sub-cellar; and

WHEREAS, the Board notes that the use of the cellar will be strictly limited to commercial (Use Group 6) storage space and will only be accessible by employees of the commercial use and will not offer general access to the public or be used in any manner that suggests a direct extension of the first floor commercial operation; and

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

WHEREAS, based upon its review of the evidence, the Board finds that the requested amendment does not alter the Board's findings made for the original variance, specifically with regard to its findings pursuant to ZR §§ 72-21(b), (c), and (e); and

WHEREAS, accordingly, the Board finds the proposed variance, as amended, continues to reflect the minimum variance and the Board has determined that it is appropriate, with certain conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated July 1, 2008, so that as amended this portion of the resolution shall read: "to permit the noted addition of a second elevator, a sub-cellar, and other related plan changes; *on condition* that all work shall substantially conform to drawings filed with this application and marked "Received January 6, 2010"-(17) sheets; and *on further condition*:

THAT the residential FAR shall be limited to 5.6 and the commercial FAR shall be limited to 0.4;

THAT the use of the cellar shall be strictly limited to

accessory storage associated with the first floor Use Group 6 use;

THAT the cellar shall not be generally accessible from the Use Group 6 use except for storage purposes;

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. 104072076)

Adopted by the Board of Standards and Appeals, January 12, 2010.

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 –

For Applicant: Fredrick A. Becker

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

75-95-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for The Rupert Yorkville Towers Condominium, owner; TSI East 91 d/b/a New York Sports Club, lessee.

SUBJECT – Application October 8, 2009 – Extension of Term for a special permit (§73-36) which expired on January 28, 2006 for the operation of a Physical Culture Establishment (*New York Sports Club*); Waiver of the Rules. C2-8 zoning district.

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

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

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

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ACTION OF THE BOARD – Laid over to February 2, 2010, at 10 A.M., for decision, hearing closed.

5-96-BZ

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

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

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

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Elizabeth Safian.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to February 2, 2010, at 10 A.M., for decision, hearing closed.

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, Andrea Claire, Gerald Esposito and Mario Avolone.

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

163-99-BZ

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

SUBJECT – Application September 16, 2009 – Extension of Term for a special permit (§73-36) which will expire on

June 28, 2010 for the operation of a Physical Culture Establishment (*New York Sports Club*); Waiver of the Rules. M1-5B zoning district.

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

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to February 2, 2010, at 10 A.M., for decision, hearing closed.

405-01-BZ

APPLICANT – Eric Palatnik, P.C., for United Talmudical Academy, owner.

SUBJECT – Application November 24, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) to construct a five-story school and synagogue (UG 3 & 4) which expired on November 12, 2006. R5/C2-3 zoning district.

PREMISES AFFECTED – 1275 36th Street, between Clara Street and Louisa Street, Block 5310, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12BK

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

26-02-BZ

APPLICANT – Walter T. Gorman, P.E., for ExxonMobil Corporation, owner; A & A Automotive Corporation, lessee.

SUBJECT – Application November 23, 2009 – Extension of Time to obtain a Certificate of Occupancy for a Gasoline Service Station (*Mobil*) which expires on January 28, 2010. C1-2/R3X zoning district.

PREMISES AFFECTED – 1680 Richmond Avenue, north west corner of Victory Boulevard, Block 2160, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Cindy Bachan.

THE VOTE TO CLOSE HEARING –

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

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Negative:.....0

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

265-08-BZ

APPLICANT – Richard Bass, Herrick, Feinstein, LLP, for 70 Wyckoff LLC, owner.

SUBJECT – Application December 8, 2009 – Extension of Time to obtain a Certificate of Occupancy of a previously granted Variance (§72-21) for the legalization of residential units in a manufacturing building which expired on December 23, 2009. M1-1 zoning district.

PREMISES AFFECTED – 70 Wyckoff Avenue, south east corner of Wyckoff Avenue and Suydam Street, Block 3221, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #4BK

APPEARANCES –

For Applicant: Richard Bass.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

APPEALS CALENDAR

205-05-A

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

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

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

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated August 26, 2009, acting on Department of Buildings Application No. 410223253, reads in pertinent part:

“A1 The existing building to be reconstructed and altered lies within the bed of a mapped street

contrary to General City Law Article 3, Section 35

A2 The proposed upgraded private disposal system is in the bed of a mapped street contrary to General City Law Article 3, Section 35 and Department of Buildings policy;” and

WHEREAS, this is an application to permit the proposed construction of a single-family home located within the bed of a mapped street, Seventh Avenue, contrary to Section 35 of the General City Law; and

WHEREAS, on May 16, 2006, under the subject calendar number, the Board granted an application under Section 35 of the General City Law to legalize an existing home with a rear extension in the bed of a mapped street; and

WHEREAS, the applicant represents that the owner has decided to revise the plans to reflect the reconstruction and enlargement of the existing home rather than the legalization of the existing conditions, thus necessitating the applicant to file the subject application; and

WHEREAS, a public hearing was held on this application on December 15, 2009, after due notice by publication in the *City Record*, and then to decision on January 12, 2010; and

WHEREAS, by letter dated December 9, 2009, the Fire Department states that it has reviewed the subject proposal and has no objections, with the following conditions: (1) the entire building be fully sprinklered in conformity with the sprinkler provisions of the New York City Fire Code § 29-503.8.2, Local Law 10 of 1999 as well as Reference Standard 17-2B of the New York City Building Code (the “Building Code”); and (2) the entire building be provided with interconnected smoke alarms, which shall be designed and installed in accordance with Building Code § 28-907.2.10; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the entire building will be fully sprinklered; and

WHEREAS, the Board notes that the Fire Department’s approval was also conditioned on the inclusion of interconnected smoke alarms; and

WHEREAS, by letter dated September 30, 2009, the Department of Environmental Protection states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated November 19, 2009, the Department of Transportation (DOT) states that it has reviewed the subject proposal and has no objections; and

WHEREAS, DOT states that the applicant’s property is not included in the agency’s ten-year capital plan; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated August 26, 2009, acting on Department of Buildings Application No. 410223253 is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received November 23, 2009 (1) sheet; that the

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proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition:*

THAT the entire building shall be fully sprinklered in conformity with the sprinkler provisions of the New York City Fire Code § 29-503.8.2, Local Law 10 of 1999 and Reference Standard 17-2B of the Building Code;

THAT the entire building shall be provided with interconnected smoke alarms, which shall be designed and installed in accordance with Building Code § 28-907.2.10;

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

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

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

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

Adopted by the Board of Standards and Appeals, January 12, 2010.

262-09-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Maria Larkin, lessee.

SUBJECT – Application September 14, 2009 – Reconstruction and enlargement of an existing single family home not fronting on a mapped street, contrary to General City Law Section 36 and located within the bed of a mapped street (B204th Street), contrary to General City Law Section 35 and Department of Buildings Policy. R4 Zoning District. PREMISES AFFECTED – 711 Bayside Drive, north side of mapped 204th Street, 28.63’ south of Bayside Drive, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Loretta Papa.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated September 9, 2009, acting on Department of Buildings Application No. 410233849, reads in pertinent part:

“A1 – The proposed enlargement is on a site located partially in the bed of a mapped street therefore no permit or Certificate of Occupancy can be issued as per Art. 3, Sect.

35 of the General City Law.

A2– The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Art. 3, Sect. 36 of the General City Law; also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section 27-291 (26 - 401.1) of the Administrative Code of the City of New York.

A3– The private disposal system is in the bed of a mapped street contrary to Department of Buildings policy;” and

WHEREAS, a public hearing was held on this application on January 12, 2010, after due notice by publication in the *City Record*, and then to closure and decision on the same date; and

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

WHEREAS, by letter dated October 1, 2009, the Department of Environmental Protection states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated November 19, 2009, the Department of Transportation (DOT) states that it has reviewed the subject proposal and has no objections; and

WHEREAS, DOT states that the applicant’s property is not included in the agency’s ten-year capital plan; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated September 9, 2009, acting on Department of Buildings Application No. 410233849, is modified by the power vested in the Board by Sections 35 and 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received September 14, 2009” – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition:*

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

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

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

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

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Adopted by the Board of Standards and Appeals,
January 12, 2010.

263-09-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative, owner; Michael & Christine Salica, lessees.

SUBJECT – Application September 14, 2009 – Reconstruction and enlargement of an existing single family home not fronting on a mapped street, contrary to General City Law Section 36, and located within the bed of a mapped street (B216th), contrary to General City Law Section 35. R4 Zoning District.

PREMISES AFFECTED – 28 Tioga Walk, west side of Tioga Walk, 18.32’ south of paved Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Loretta Papa.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated September 9, 2009, acting on Department of Buildings Application No. 420020907, reads in pertinent part:

“A1 – The proposed enlargement is on a site located partially in the bed of a mapped street therefore no permit or Certificate of Occupancy can be issued as per Art. 3, Sect. 35 of the General City Law.

A2 – The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Art. 3, Sect. 36 of the General City Law; also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section 27-291 (26 - 401.1) of the Administrative Code of the City of New York .

WHEREAS, a public hearing was held on this application on January 12, 2010, after due notice by publication in the *City Record*, and then to closure and decision on the same date; and

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

WHEREAS, by letter dated October 1, 2009, the Department of Environmental Protection states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated November 19, 2009, the

Department of Transportation (DOT) states that it has reviewed the subject proposal and has no objections; and

WHEREAS, DOT states that the applicant’s property is not included in the agency’s ten-year capital plan; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated September 9, 2009, acting on Department of Buildings Application No. 420020907, is modified by the power vested in the Board by Sections 35 and 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received September 14, 2009” – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

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

Adopted by the Board of Standards and Appeals,
January 12, 2010.

62-08-A

APPLICANT – Eric Palatnik, P.C. for Benny Ulloa, owner.

SUBJECT – Application March 27, 2009 – Proposed construction not fronting on a legally mapped street, contrary to General City Law, Section 36. R1-2 zoning district.

PREMISES AFFECTED – 398 Nugent Street, Nugent Street, North of Saint George Road, Block 2284, Lot 25, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Carol Donovan and Kathleen C. Merghan.

For Administration: Anthony Scaduto, Fire Department.

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

199-09-A thru 213-09-A

APPLICANT – Eric Palatnik, P.C., for Gino Savo, owner.

SUBJECT – Application June 29, 2009 – Proposed construction of 15, two-story, one family homes not fronting

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on a mapped street, contrary to General City Law Section 36. R3A /R3-2 Zoning District.

PREMISES AFFECTED – 165, 161, 159, 155, 153, 151, 149, 145, 143, 141, 137, 135, 131, 129, 127, Roswell Avenue, Block 2641, Lot 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Eric Palatnik.

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

245-09-BZY

APPLICANT – Sheldon Lobel, P.C., for Adelphi Luxury Development, LLC, owner.

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

PREMISES AFFECTED – 120 Adelphi Street, west side of Adelphi Street, 252’ north of the intersection of Adelphi Street and Myrtle Avenue, Block 2044, Lots 74 and 75, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Jordan Most and A. Calvo.

For Opposition: Enid Braun.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

249-09-A

APPLICANT – Bryan Cave LLP, for 363 Lafayette Street, LLC,owner.

SUBJECT – Application August 27, 2009 – Appeal challenging Department of Building's determination that permit for the subject premises expired and became invalid because the permitted work was not commenced within 12 months from the date of issuance, per Title 28, §28-105.9 of the Administrative Code.

PREMISES AFFECTED – 363 Lafayette Street, (371 Lafayette Street, 21 Great Jones Street) east side of Lafayette Street, between Bond and Great Jones Streets, Block 530, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

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

265-09-A

APPLICANT – Gary D. Lenhart, for The Breezy Point Cooperative, Incorporated, owner; John Strong, lessee.

SUBJECT – Application September 15, 2009 – Reconstruction and enlargement of an existing single family home and the upgrade of a private disposal system located within the bed of a mapped street, contrary to General City Law Section 35 and Department of Buildings Policy. R4 Zoning District.

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

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Laid over to February 2, 2010, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, JANUARY 12, 2010
1:30 P.M.**

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

ZONING CALENDAR

53-09-BZ

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

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

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

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

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 December 30, 2009, acting on Department of Buildings Application No. 310305158, reads in pertinent part:

“The proposed erection of a three family three story residence in Use Group 2 in an R5 zoning district:

1. Creates non-compliance with respect to one front yard and is contrary to Section 23-45 of the Zoning Resolution.
2. Is contrary to Sections 23-32 and 23-33 which requires a minimum lot area of 1,700 square feet;” and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R5 zoning district, the proposed construction of a three-story three-family home that does not comply with the zoning requirements for lot area and front yards, contrary to ZR §§ 23-32, 23-33 and 23-45; and

WHEREAS, a public hearing was held on this application on July 28, 2009 after due notice by publication in *The City Record*, with continued hearings on September 22, 2009, November 10, 2009, and December 15, 2009, and then to decision on January 12, 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 5, Brooklyn, recommends approval of this application; and

WHEREAS, the adjacent property owner testified in opposition to this application, citing concerns that the proposed home will be built on a portion of her property; and

WHEREAS, in response to the adjacent neighbor, the applicant provided a survey reflecting the lot lines of the subject site, and the Board notes that the proposed plans reflect that no construction will take place beyond the subject lot lines; and

WHEREAS, certain other members of the community testified in opposition to this application, citing the following primary concerns: (1) the proposed home is not compatible with neighborhood character; (2) the proposed home would overburden the existing sewer system; and (3) the proposed home will decrease property values in the surrounding area; and

WHEREAS, the site is located on the southwest corner of Dumont Avenue and Schenck Avenue, within an R5 zoning district; and

WHEREAS, the site has a width of 20 feet, a depth of 80 feet, and a total lot area of 1,600 sq. ft.; and

WHEREAS, the site is currently vacant; and

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

WHEREAS, the proposed home will have the following complying parameters: 1,980 sq. ft. of floor area (1.25 FAR); a lot coverage of approximately 41 percent; 940 sq. ft. of open space; a side yard with a width of 37’-0” along the western lot line; a front yard with a depth of 10’-0” along the eastern lot line; a wall height of 30’-0”; a total height of 30’-0”; and three parking spaces; and

WHEREAS, however, the applicant proposes not to provide a front yard along the northern lot line (two front yards with minimum depths of 18’-0” and 10’-0”, respectively, are required); and

WHEREAS, the applicant originally proposed to construct a three-story three-family home with a floor area of 2,640 sq. ft. (1.65 FAR) and two parking spaces, which necessitated additional waivers for floor area and parking; and

WHEREAS, during the course of the hearing process the applicant revised its proposal to provide a floor area of 1,980 sq. ft. (1.25 FAR) and three parking spaces, thereby eliminating the floor area and parking waivers; and

WHEREAS, the applicant has provided documentation establishing that the subject lot is an undersized lot pursuant to ZR § 23-32; and

WHEREAS, the applicant submitted Department of Finance records and other evidence reflecting that the site has existed in its current configuration since before December 15, 1961 and its ownership has been independent of the ownership of the two adjoining lots; and

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

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WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the subject corner lot is small and narrow; and

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

WHEREAS, the Board notes that a three-family home is permitted as-of-right in an R5 zoning district, but that a waiver is required for the site's substandard lot size; and

WHEREAS, the applicant states that the subject site is a corner lot, which requires front yards with widths of 18'-0" and 10'-0", respectively; and

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

WHEREAS, the applicant represents that subtracting the widths of the exterior walls would leave a complying home with a maximum interior width of 8'-0"; and

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

WHEREAS, as to the uniqueness of this condition, the applicant submitted a 200-ft. radius diagram reflecting that the subject lot is both the smallest and narrowest corner lot in the surrounding neighborhood; and

WHEREAS, based upon the above, the Board finds that the cited unique physical condition creates practical difficulties in developing the site in strict compliance with the applicable front yard regulations; and

WHEREAS, the applicant provided a financial analysis indicating that, due to the narrow width and small size of the subject lot, development of the proposed three-family home is necessary in order to provide a reasonable rate of return; and

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

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

WHEREAS, the applicant notes that the proposed bulk is compatible with nearby residential development and that that it complies with all relevant bulk regulations; and

WHEREAS, specifically, the applicant notes that the proposed home complies with the R5 zoning district regulations for use, FAR, side yards, lot coverage, open space, height, and parking; and

WHEREAS, the applicant submitted evidence that the subject site was occupied by a three-story five-family building dating from 1940; and

WHEREAS, the applicant submitted a land use map identifying 14 multiple dwellings with three units or more located within three blocks of the subject site; and

WHEREAS, therefore, the Board finds that this action will neither alter the essential character of the surrounding

neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is a result of the historical lot dimensions; and

WHEREAS, as noted above, the applicant originally proposed to construct a three-story three-family home with a floor area of 2,640 sq. ft. (1.65 FAR) and two parking spaces, which necessitated additional waivers for floor area and parking; and

WHEREAS, the Board directed the applicant to revise the proposal to reflect compliance with floor area requirements (1.25 FAR is the maximum permitted) and parking requirements (three parking spaces are the minimum required), thereby eliminating the floor area and parking waivers; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21 to permit, within an R5 zoning district, a three-story three-family home that does not comply with the zoning requirements for lot area and front yards, contrary to ZR §§ 23-32, 23-33 and 23-45; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 1, 2009"–(9) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: a maximum floor area of 1,980 sq. ft. (1.25 FAR); a lot coverage of approximately 41 percent; 940 sq. ft. of open space, a side yard with a width of 37'-0" along the western lot line; a front yard with a depth of 10'-0" along the eastern lot line; a wall height of 30'-0"; a total height of 30'-0"; and parking for a minimum of three cars, as per the BSA-approved plans;

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

THAT there shall be no habitable room in the cellar;

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

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

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

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

Adopted by the Board of Standards and Appeals, January 12, 2010.

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164-09-BZ

APPLICANT – Eric Palatnik, P.C., for Steve Palanker, owner.

SUBJECT – Application April 29, 2009 – Special Permit (§73-622) for enlargement of an existing two-family home, contrary to floor area, lot coverage and open space (§23-141) and rear yard (ZR §23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 124 Irwin Street, between Hampton Avenue and Oriental Boulevard, Block 8751, Lot 416, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated March 31, 2009, acting on Department of Buildings Application No. 310304612, reads:

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

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

WHEREAS, a public hearing was held on this application on July 21, 2009 after due notice by publication in *The City Record*, with continued hearings on August 25, 2009, October 6, 2009, November 10, 2009, and November 24, 2009, and then to decision on January 12, 2010; and

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

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

WHEREAS, representatives of the Manhattan Beach Community Group testified in opposition to this application, citing apparent inconsistencies in the plans and concerns about compliance with attic space limitations and the perimeter wall height; and

WHEREAS, certain members of the community testified in opposition to this application; and

WHEREAS, the subject site is located on the west side of Irwin Street, between Hampton Avenue and Oriental

Boulevard, in an R3-1 zoning district; and

WHEREAS, the subject site has a total lot area of 6,000 sq. ft., and is occupied by a single-family home with a floor area of 2,823 sq. ft. (0.47 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,823 sq. ft. (0.47 FAR) to 5,938 sq. ft. (0.99 FAR); the maximum permitted floor area is 3,600 sq. ft. (0.60 FAR, with an attic bonus); and

WHEREAS, the applicant proposes to provide an open space of approximately 54 percent (65 percent is the minimum required); and

WHEREAS, the applicant proposes to provide a lot coverage of approximately 46 percent (35 percent is the maximum permitted); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20’-9” (a minimum rear yard of 30’-0” is required); and

WHEREAS, at hearing the Board questioned which portions of the original home were being retained; and

WHEREAS, in response, the applicant submitted revised plans showing that portions of the foundation walls and first floor walls are being retained; and

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

WHEREAS, in response to the opposition’s concerns, the Board directed the applicant to resolve any inconsistencies in the plans; and

WHEREAS, accordingly, the applicant submitted revised plans which reconcile the location of windows and other related notations; and

WHEREAS, additionally, the Board notes that DOB will review the proposed attic and that the proposed perimeter wall height complies with zoning district regulations; and

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622 and 73-03, to permit, within an R3-1 zoning district, the enlargement of a single-family home, which does not

MINUTES

comply with the zoning requirements for FAR, open space, lot coverage and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received December 10, 2009”-(15) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of 5,938 sq. ft. (0.99 FAR); an open space of approximately 54 percent; a lot coverage of approximately 46 percent; a side yard with a minimum width of 5’-0” along the northern lot line; a side yard with a minimum width of 9’-8” along the southern lot line; a rear yard with a minimum depth of 20’-9”; a perimeter wall height of 21’-0”, and a total height of 35’-0”, as illustrated on the BSA-approved plans;

THAT there shall be a maximum of 905.5 sq. ft. of floor area in the attic, which shall be reviewed and approved by DOB;

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, January 12, 2010.

218-09-BZ

CEQR #10-BSA-002K

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

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

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

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Jeffrey A. Chester.

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 Superintendent, dated June 10, 2009, acting on Department of Buildings Application No. 320027458, reads:

“Accessory drive-through facility not permitted in a C1-3 zone pursuant to ZR § 32-15. Refer to Board of Standards & Appeals for renewal of special permit. Drive through facility shall be permitted in C1-3, only as provided in ZR 73-243 through BSA approval;” and

WHEREAS, this is an application under ZR §§ 73-243 and 73-03, to permit, on a site partially within a C1-3 (R6) zoning district and partially within a C8-2 zoning district, the operation of an accessory drive-through facility on the C1-3 (R6) portion of the site, in conjunction with an as-of-right eating and drinking establishment (Use Group 6), contrary to ZR § 32-15; and

WHEREAS, a public hearing was held on this application on October 27, 2009, with continued hearings on November 24, 2009 and December 15, 2009, and then to decision on January 12, 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 1, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site encompasses an entire city block, bounded by Sullivan Place to the north, McKeever Place to the east, Empire Boulevard to the south, and Franklin Avenue to the west; and

WHEREAS, the site is divided by a zoning district boundary line, with the northern portion of the lot located within a C1-3 (R6) zoning district, and the southern portion of the lot located within a C8-2 zoning district; and

WHEREAS, the proposed accessory drive-through facility is permitted as-of-right in the C8-2 zoning district, but a special permit is required for the drive-through facility in the C1-3 (R6) zoning district, pursuant to ZR § 73-243; and

WHEREAS, the subject site has a total lot area of 38,804 sq. ft. and is occupied by a McDonald’s restaurant; and

WHEREAS, on December 4, 1990, under BSA Cal. No. 895-89-BZ, the Board granted a special permit for the development of a drive-through facility accessory to an eating and drinking establishment, for a term of five years; the special permit lapsed on December 4, 1995; and

WHEREAS, the applicant seeks to re-establish the special permit for a period of five years and to make minor changes to the plans; and

WHEREAS, the applicant represents that the special permit lapsed due to management oversight; and

WHEREAS, the applicant states that the site is operated in substantial compliance with the Board-approved plans from the 1990 grant; and

WHEREAS, the applicant represents that the only significant change to the site since the prior grant is the

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addition of a 679 sq. ft. play area in 1996, which increased the size of the existing restaurant to 5,710 sq. ft. and required the removal of four parking spaces; and

WHEREAS, the applicant submitted a building permit and zoning analysis reflecting that the play area was constructed pursuant to valid permits and is in compliance with the underlying zoning district regulations; and

WHEREAS, under ZR § 73-243, the application must demonstrate that: (1) the drive-through facility provides reservoir space for not less than ten automobiles; (2) the drive-through facility will cause minimal interference with traffic flow in the immediate vicinity; (3) the eating and drinking establishment with accessory drive-through facility complies with accessory off-street parking regulations; (4) the character of the commercially-zoned street frontage within 500 feet of the subject premises reflects substantial orientation toward the motor vehicle; (5) the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity; and (6) there will be adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, the applicant submitted a site plan indicating that the drive-through facility provides reservoir space for a ten-car queue; and

WHEREAS, the applicant represents that the facility will cause minimal interference with traffic flow in the immediate vicinity of the subject site; and

WHEREAS, in support of this representation, the applicant provided a traffic analysis indicating that the operation of the proposed accessory drive-through facility will generate a total of 36 new vehicle trips during any peak hour, which is below the CEQR threshold of 50 vehicle trips during any peak hour; and

WHEREAS, the applicant represents that the facility fully complies with the accessory off-street parking regulations for the C1-3 (R6) zoning district; and

WHEREAS, in support of this representation, the applicant submitted a proposed site plan providing 40 accessory off-street parking spaces, which is more than double the requirement of 19 parking spaces pursuant to ZR § 36-21; and

WHEREAS, the applicant represents that the facility conforms to the character of the commercially zoned street frontage within 500 feet of the subject premises, which reflects substantial orientation toward the motor vehicle; and

WHEREAS, the applicant has submitted photographs of the premises and the surrounding streets, which supports this representation; and

WHEREAS, the applicant represents that the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity of the subject premises; and

WHEREAS, the applicant states that the restaurant and drive-through facility are oriented toward Empire Boulevard, which is on the portion of the site within a C8-2 zoning district and is characterized by commercial uses; and

WHEREAS, the applicant further states that the main points of ingress and egress to the site, located on Empire Boulevard and McKeever Place, are contained within the C8-2

portion of the site; and

WHEREAS, the applicant represents that the fact that the proposed drive-through facility has operated at this site without complaints since 1990, when the Board granted the original special permit, is further evidence that it does not have an adverse impact on residences in the surrounding area; and

WHEREAS, the applicant states that there are no residential uses located adjacent to the site; and

WHEREAS, the applicant further states that the nearest residential use is located to the north of the site, and that a black wrought iron fence with a height of five feet and landscaping are located on the northern side of the site to provide buffering; and

WHEREAS, at hearing, the Board questioned whether the signage on the site was in compliance with the C1-3 (R6) and C8-2 zoning district regulations; and

WHEREAS, in response, the applicant submitted a signage analysis and drawings illustrating the dimensions of each sign on the site, reflecting that the signage is in compliance with the relevant zoning district regulations; 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-243 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 10-BSA-002K dated November 13, 2009; and

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

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

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; 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, the Rules of Procedure for City Environmental Quality Review and

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Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-243 and 73-03 to permit, on a site partially within a C1-3 (R6) zoning district and partially within a C8-2 zoning district, the operation of an accessory drive-through facility in connection with an as-of-right eating and drinking establishment (Use Group 6), contrary to ZR § 32-15; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 10, 2009"- (5) sheets; and *on further condition*:

THAT the term of this grant shall expire on January 12, 2015;

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

THAT parking and queuing space for the drive-through shall be provided as indicated on the BSA-approved plans;

THAT all landscaping and/or buffering shall be maintained as indicated on the BSA-approved plans;

THAT exterior lighting shall be directed away from the nearby residential uses;

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

THAT all signage shall conform with the underlying C1-3 or C8-2 zoning district regulations, as applicable;

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 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 plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, January 12, 2010.

231-09-BZ

CEQR #10-BSA-011M

APPLICANT – Valerie G. Campbell, Esq. c/o Kramer Levin Naftalis & Frankel LLP for 71 Laight Street, LLC, owner.

SUBJECT – Application July 21, 2009 – Variance (§72-21) to allow for the construction of a six-story mixed use building, contrary to use and parking regulations (ZR §42-10, §13-10). M1-5/TMU Special District.

PREMISES AFFECTED – 412-414 Greenwich Street, Southwest corner of Laight and Greenwich Streets, on the block bounded by Greenwich, Laight, Washington and Hubert Streets. Block 217, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Michael Sillerman.

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, decision of the Manhattan Borough Commissioner, dated July 6, 2009, acting on Department of Buildings Application No. 120081614, reads:

“Proposed Use Group 2 (residential) in M1-5 (TMU) zoning district is contrary to ZR 42-10. Refer to Board of Standards and Appeals . . .

Proposed 12 accessory parking spaces in M1-5 (TMU) zoning district is contrary to ZR 13-10. Refer to Board of Standards and Appeals.

Proposed FAR is contrary to ZR 43-12 in that it exceeds the maximum of 5.0 FAR in M1-5 (TMU-Area B2) zoning district;” and

WHEREAS, to permit, within an M1-5 zoning district, within the Special Tribeca Mixed Use District (Area B2) and the Tribeca North Historic District, the construction of a six-story and penthouse residential building with limited ground floor retail use and 12 accessory parking spaces, which is contrary to ZR §§ 42-10 and 13-10; and

WHEREAS, a public hearing was held on this application on November 10, 2009, after due notice by publication in the *City Record*, with a continued hearing on December 8, 2009, and then to decision on January 12, 2010; and

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

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

WHEREAS, the site is located on the southwest corner of Greenwich Street and Laight Street, within an M1-5 zoning district, within the Special Tribeca Mixed Use District (Area B2) and the Tribeca North Historic District; and

WHEREAS, the site has 125 feet of frontage on Greenwich Street, 80 feet of frontage on Laight Street, and a lot area of approximately 9,968 sq. ft.; and

WHEREAS, the site is occupied by a one-story (1.0 FAR) freight loading building currently used for parking, which will be demolished in anticipation of construction (the “Existing Building”); and

WHEREAS, the applicant initially proposed to construct a six-story and penthouse building with 55,055 sq. ft. of floor area (5.52 FAR), 18 residential units (UG 2), unrestricted ground floor retail (UG 6), and 12 accessory parking spaces in the cellar (six parking spaces is the maximum number permitted within the subject zoning district); and

WHEREAS, during the hearing process, the applicant revised the application to reflect 54,824 sq. ft. of floor area (5.5 FAR) and limited retail use on the ground floor; the other parameters remained as initially proposed; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in complying with applicable zoning district regulations: (1) the Existing Building is small and obsolete for

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modern commercial or manufacturing use; and (2) there are poor subsurface conditions, including loose to medium-dense soil, shallow groundwater level, and pockets of compressible material; and

WHEREAS, the applicant represents that the Existing Building, which was built in 1956 as an adjunct to the historic six-story warehouse building located at 401 Washington Street is functionally obsolete; and

WHEREAS, specifically, the applicant represents that the one-story, non-fireproof Existing Building, with an FAR of 1.0 significantly underutilizes the site in terms of use and floor area; a maximum FAR of 5.0 is permitted for a conforming use in the subject zoning district; and

WHEREAS, the applicant represents that the one-story Existing Building cannot structurally sustain any vertical enlargement without a complete reworking of the foundation system, including adding new columns and a new foundation; and

WHEREAS, the applicant submitted letters from an architect and an engineer that support the assertions about the Existing Building's inability to feasibly support an enlargement; and

WHEREAS, the applicant represents that there are only three other potential development sites within a 400-ft. radius of the site, which are occupied by similarly small buildings or are otherwise built out to a significant amount below the available bulk of 5.0 FAR as the subject site; these include a total of eight tax lots within three assemblage parcels on blocks 223 and 224; there is only one vacant lot within the 400-ft. radius; and

WHEREAS, specifically, the applicant distinguishes the three other sites for either (1) not being wholly within the historic district, (2) being within the C6-2A zoning district, or (3) being partially vacant; and

WHEREAS, the applicant represents that the majority of the sites within a 400-ft. radius of the site are occupied by buildings with greater FAR and more stories than the Existing Building and are eligible for conversion to Loft Dwellings or Joint Living-Work Quarters for Artists pursuant to ZR § 111-02; and

WHEREAS, the applicant notes that the current use of the site for parking is a pre-existing non-conforming use which is not permitted as of right in the Special Tribeca Mixed Use District (Area B2); and

WHEREAS, the applicant represents that there are poor subsurface conditions at the site, including loose to medium-dense soil, shallow groundwater level, a portion of the site's location within the 100-year flood plain, and pockets of compressible material, which result in premium construction costs; and

WHEREAS, in support of this assertion, the applicant submitted an engineering report that details the subsurface conditions and distinguishes it from nearby sites; and

WHEREAS, the applicant attributes the subsurface conditions to the site's location at and beyond Manhattan's old shoreline, which is a condition affecting approximately 20 percent of the total Tribeca North Historic District; and

WHEREAS, the applicant represents that a shallow

foundation system is not feasible as it would require a site-wide dewatering system and underpinning of adjacent building and the over-excavation of compressible materials; and

WHEREAS, accordingly, the applicant represents that a deep foundation system is required, which will include drilled piles; and

WHEREAS, the applicant represents that a portion of the site is located within the 100-year flood plain and the remainder is located within the 500-year flood plain; the applicant represents that less than 15 percent of the sites within the Tribeca Historic District are within the 500-year flood plain and less than 10 percent of the district is within the 100-year flood plain; and

WHEREAS, specifically, the applicant represents that, within a 400-ft. radius of the site, 23 lots are within the 100-year flood plain, of which six are underdeveloped to a similar degree as the site and of those six, only three are also located within the historic district; and

WHEREAS, the applicant represents that the location within the flood plain requires an additional pressure slab and additional foundation wall strength and that foundation waterproofing would be required up to ground surface, which is normally only required halfway up the cellar wall; and

WHEREAS, the applicant represents that a cellar must be provided for the mechanicals and that there are not any additional costs associated with constructing a full cellar that can also accommodate the parking, which is required to offset the premium construction costs; and

WHEREAS, the applicant submitted an engineering report of the subsurface conditions, which reflects the noted conditions; and

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

WHEREAS, the applicant provided an initial feasibility study analyzing five scenarios: (1) a new as of right commercial building with a courtyard; (2) a new as of right commercial building with a rectangular layout; (3) a residential/commercial building without a penthouse and with an FAR of 5.1; (4) a residential/commercial building with a courtyard and an FAR of 5.0; and (5) the original proposal for a residential/commercial building with an FAR of 5.52; and

WHEREAS, the applicant's financial analysis reflected that only the initial proposal would realize a reasonable rate of return; and

WHEREAS, the Board directed the applicant to review alternate proposals including (1) a residential/commercial building without a cellar and with the mechanicals relocated, (2) the elimination of the parking waiver, and (3) a residential/commercial building with an FAR of 5.5 to reflect the FAR of the adjacent C6-2A zoning district and that is expected to be adopted with the proposed Tribeca rezoning, and to limit the retail use as permitted as of right under the current Special Tribeca Mixed-Use District (Area B2) regulations; and

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WHEREAS, the revised financial analysis reflects that the current proposal provides the applicant with a reasonable rate of return; and

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

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

WHEREAS, the applicant states that the immediate area is a mix of residential and commercial uses, with some remaining industrial and warehouse uses; and

WHEREAS, the applicant notes that the proposed residential use is consistent with the character of the area, which includes many other such uses, some of which are proposed to occupy the adjacent site at 401 Washington Street; and

WHEREAS, additionally, the applicant notes that there is a five-story store and loft building at 70 Laight Street, a ten-story warehouse with residential uses at 74 Laight Street, a seven-story residential building at 78 Laight Street, and other similarly-sized buildings are under construction and conversion in the area; and

WHEREAS, the Board agrees that the character of the area is mixed-use, and finds that the introduction of 18 dwelling units is compatible with the neighborhood character; and

WHEREAS, the Board notes that there are no bulk regulations for a residential building in an M1-5 zoning district, but that the proposed FAR of 5.5 and all other bulk parameters would be permitted in the adjacent C6-2A zoning district and under the provisions of the proposed Tribeca rezoning; and

WHEREAS, the applicant notes that the proposed building is designed to replicate the massing and design of the historic six-story warehouse building, located immediately to the west at 401 Washington Street with details that echo those of the historic building; and

WHEREAS, the Board notes that the floor heights, fenestration, and building height, among other parameters, are aligned with and closely match the 401 Washington Street building; and

WHEREAS, the applicant received a Certificate of Appropriateness from the Landmarks Preservation Commission (LPC), dated March 17, 2008; and

WHEREAS, the applicant states that the majority of the mechanicals will be located in the cellar, in accordance with LPC's direction to maintain them out of view; and

WHEREAS, the applicant asserts that the inclusion of six more parking spaces than are permitted by the zoning district regulations is compatible with the neighborhood character and that the site is currently occupied with a building used exclusively for parking, which is a legal pre-existing use that would not be permitted under the current zoning; and

WHEREAS, in support of the above statements, the applicant submitted a land use map, photographs, and building information reflecting the uses in the immediate vicinity of the site; and

WHEREAS, accordingly, 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 rather due to the inherent conditions of the site; and

WHEREAS, the applicant represents that the proposed use and bulk, which matches the envelope of the 401 Washington Street Building, reflect the minimum waivers necessary to compensate for the additional construction costs associated with the uniqueness of the site; and

WHEREAS, at hearing, the Board directed the applicant to eliminate the request for unlimited retail use and to reduce the FAR request to 5.5 as is contemplated by the C6-2A zoning district regulations and the proposed Tribeca rezoning; and

WHEREAS, in response, the applicant eliminated the request for unlimited retail use on the first floor and reduced the FAR to 5.5; and

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) 10BSA131M, dated October 28, 2009; and

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

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Assessment has reviewed the project for potential hazardous materials impacts; and

WHEREAS, DEP approved the Remedial Action Plan and Construction Health and Safety Plan on December 2, 2009; and

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

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WHEREAS, the applicant proposes to fuel the fossil fuel-fired HVAC equipment with natural gas and to locate the equipment's exhaust(s) at least 41 feet from the southern lot line of the subject site to avoid any potential for significant air quality impacts at adjacent sites; and

WHEREAS, the applicant proposes 35 dBA of window-wall noise attenuation on the north facade (Laight Street) and 30 dBA of window-wall noise attenuation on the east facade (Greenwich Street) of the proposed building with central air-conditioning as an alternate means of ventilation in order to achieve an interior noise level of 45 dBA in each residential unit; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, within an M1-5 zoning district, within the Special Tribeca Mixed Use District (Area B2) and the Tribeca North Historic District, the construction of a six-story and penthouse residential building with limited ground floor retail and 12 accessory parking spaces, which is contrary to ZR §§ 42-10 and 13-10; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 6, 2010"–four (4) sheets and "Received January 11, 2010"–seven (7) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: six stories; 18 residential units; a total floor area of 54,824 sq. ft. (5.5 FAR); a streetwall height of 74'-1"; and a total height of 85'-1";

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

THAT DOB shall review and confirm compliance for egress, light and air, and all other relevant sections of the Multiple Dwelling Law and Building Code;

THAT all construction shall be performed in conformance with the plans approved by the LPC and associated with the Certificate of Appropriateness, dated March 17, 2008;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until DEP shall have issued a Notice of Satisfaction;

THAT the fossil fuel-fired HVAC equipment shall be fueled by natural gas and the equipment's exhaust(s) shall be located at least 41 feet from the southern lot line of the subject site;

THAT 35 dBA of window-wall noise attenuation shall be provided on the north facade (Laight Street) and 30 dBA of window-wall noise attenuation shall be provided on the east facade (Greenwich Street) of the proposed building with central air-conditioning as an alternate means of ventilation;

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

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, January 12, 2010.

269-09-BZ

APPLICANT – Dennis D. Dell'angelo, R.A., for Jehoshua Cohen, owner.

SUBJECT – Application September 21, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to lot coverage (§23-141); side yard (§23-461) and less than the required rear yard (§23-47) and the legalization of a prior one story enlargement at the front of the existing home. R-5 zoning district.

PREMISES AFFECTED – 1938 East 12th Street, west side of East 12th Street, between Avenue S and Avenue T, Block 7290, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Marc Dell'angelo.

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 September 11, 2009, acting on Department of Buildings Application No. 320064577, reads:

- "1) Proposed lot coverage is contrary to Sec. 23-141 of the NYC Zoning Resolution.
 - 2) Proposed horizontal enlargement provides less than the required 8'-0" side yard contrary to Sec. 23-461 of the NYC Zoning Resolution.
 - 3) Proposed horizontal enlargement provides less than the required rear yard of 30'-0" contrary to Sec. 23-47 of the NYC Zoning Resolution;"
- and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R5 zoning district, the proposed enlargement and partial legalization of a semi-detached single-family home, which does not comply with the zoning requirements for lot coverage, side yards and rear yard,

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contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on November 17, 2009 after due notice by publication in *The City Record*, with a continued hearing on December 8, 2009, and then to decision on January 12, 2010; and

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

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

WHEREAS, the subject site is located on the west side of East 12th Street, between Avenue S and Avenue T, in an R5 zoning district; and

WHEREAS, the subject site has a total lot area of 2,000 sq. ft., and is occupied by a semi-detached single-family home with a floor area of approximately 1,534 sq. ft. (0.76 FAR); and

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

WHEREAS, the subject home initially had a floor area of approximately 1,399 sq. ft. (0.70 FAR), and was subsequently enlarged to its current floor area of 1,534 sq. ft. (0.76 FAR); and

WHEREAS, the applicant now seeks to legalize the prior enlargement and to permit a further increase in the floor area from 1,534 sq. ft. (0.76 FAR) to approximately 2,253 sq. ft. (1.12 FAR); the maximum permitted floor area is 2,500 sq. ft. (1.25 FAR); and

WHEREAS, the applicant proposes to provide a lot coverage of 61 percent (55 percent is the maximum permitted); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard with a width of 3'-9" along the southern lot line (a minimum width of 8'-0" is required); and

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

WHEREAS, at hearing, the Board directed the applicant to confirm that the existing enlargement to the subject home is structurally sound; and

WHEREAS, in response, the applicant submitted an affidavit from the architect stating that the previously constructed enlargement at the front of the second floor is structurally sound; and

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

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

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

outweighed by the advantages to be derived by the community; and

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R5 zoning district, the proposed enlargement and partial legalization of a single-family home, which does not comply with the zoning requirements for lot coverage, side yards and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received October 30, 2009"-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of approximately 2,253 sq. ft. (1.25 FAR); a lot coverage of 61 percent; a side yard with a minimum width of 3'-9" along the southern lot line; a rear yard with a minimum depth of 20'-0"; a wall height of 25'-0"; and a total height of 30'-0", 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, January 12, 2010.

195-07-BZ

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

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

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

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COMMUNITY BOARD #2M

APPEARANCES – None.

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

214-07-BZ

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: Jordan Most.

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

160-08-BZ

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

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

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

COMMUNITY BOARD #5BK

APPEARANCES –

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

For Opposition: Ronald J. Dillon.

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

187-08-BZ

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

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

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

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

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.

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

29-09-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Chabad Israeli Center, owner.

SUBJECT – Application February 23, 2009 – Variance (§72-21) to legalize and enlarge a synagogue (*Chabad Israeli Center*), contrary to lot coverage, front yards, side yards, and parking regulations. R3X zoning district.

PREMISES AFFECTED – 44 Brunswick Street, northwest corner of Brunswick Street and Richmond Hill Road, Block 2397, Lot 212, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Fredrick A. Becker.

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

161-09-BZ

APPLICANT – Rizzo Group, for 25 Garfield Sparta, LLC, owner.

SUBJECT – Application April 23, 2009 – Variance (§72-21) for the development of two residential buildings (20 dwelling units) contrary to rear yard equivalent, floor area, lot coverage, minimum distance between buildings and minimum distance between legally required window regulations (§§23-532, 23-145, 23-711, 23-861). R6B zoning district.

PREMISES AFFECTED – 580 Carroll Street (25 Garfield Place) Carroll Street/Garfield Place, between Fourth and Fifth Avenue, Block 951, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES – None.

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

214-09-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for LAL Astor Avenue Management Co., LLC, owner.

SUBJECT – Application June 29, 2009 – Special Permit (§73-125) to allow for a 9,996 sq ft ambulatory diagnostic or treatment center which exceeds the 1,500 sq ft maximum allowable floor area set forth in ZR §22-14. R4-1 zoning district.

PREMISES AFFECTED – 1464 Astor Avenue, south side of Astor Avenue, 100’ east of intersection with Fenton Avenue, Block 4389, Lot 26, 45, Borough of Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Adam Rothkrug and Hiram Rothkrug.

For Opposition: Council Member James Vacca, Thomas Lucania, John A. Fratta, Anjali Kochar, Frank Tirabasso, Joseph A. McManus, Sal Castorine, Christopher Evangeliou, and Frank V.

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

239-09-BZ

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

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

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

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Elise Wagner, Lynn Brown, Lori Mazer, Jorge Silvetti, Judah Sarna, Susan Field, Vincent Delucia, Khalice L., R Ben Maddy and Lawrence Ferrasa.

For Opposition: David Reck of Community Board 2 and Enrich Hahn and R.I.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

246-09-BZ

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

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

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

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Jordan Most and Robert Pauls.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

247-09-BZ

APPLICANT – Michael T. Sillerman, Esq., c/o Kramer Levin et al, for Central Synagogue, owner.

SUBJECT – Application August 26, 2009 – Variance (§72-21) to allow for expansion of the community house for the Central Synagogue (UG 4), contrary to floor area and height and setback regulations. (§§33-12, 81-211, 33-432). C5-2, C5-2.5 MiD zoning districts.

PREMISES AFFECTED – 123 East 55th Street, north side of East 55th Street between Park Avenue and Lexington Avenue, 127.5’, Block 1310, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Michael Sillerman.

For Opposition: Jordan Most, Howard Goldman and Brad Becker.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

271-09-BZ

APPLICANT – Sheldon Lobel, P.C., for 132-40 Metropolitan Realty, LLC, owner; Jamaica Fitness Group, LLC d/b/a Planet Fitness, lessee.

SUBJECT – Application September 21, 2009 – Special Permit (§73-36) to legalize the operation of an existing physical culture establishment (*Planet Fitness*) on the first, second, and third floors of an existing three-story building. C2-3 zoning district.

PREMISES AFFECTED – 132-40 Metropolitan Avenue,

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between Metropolitan Avenue and Jamaica Avenue, approximately 300 feet east of 132nd Street. Block 9284, Lot 19, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Elizabeth Safian.

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

302-09-BZ

APPLICANT – Harold Weinberg, P.E., for Yi Fu Rong, owner.

SUBJECT – Application October 30, 2009 – Special Permit pursuant (§73-50) to legalize an encroachment within 30-foot open area required at a rear lot line coincident with a residential zoning district boundary line (§43-302). M1-2 zoning district.

PREMISES AFFECTED – 820 39th Street, south side, 150'0" east of 8th Avenue between 8th Avenue and 9th Avenue, Block 916, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

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

Jeff Mulligan, Executive Director

Adjourned: P.M.