
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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

CALENDAR

NOVEMBER 9, 2010, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 9, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

575-37-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Duffton Realty, Inc., owner; C & D Service Center, Inc., lessee.

SUBJECT – Application July 16, 2010 – Pursuant to ZR §11-411 for an Extension of Term of an expired variance for the continued operation of a gasoline Service Station (*Gulf*) which expired on February 14, 2008; waiver of the rules. C1-3/R5B zoning district.

PREMISES AFFECTED – 60-93 Flushing Avenue, northwest corner of 61st Street, Block 2697, Lot 51, Borough of Queens.

COMMUNITY BOARD #5Q

15-99-BZ

APPLICANT – The Law Office of Fredrick A. Becker for Columbus Properties, Incorporated, owner; TSI 217 Broadway LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application August 18, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (New York Sports Club) which expired on June 15, 2009; waiver of the rules. C5-3 (LM) zoning district.

PREMISES AFFECTED – 217 Broadway, Northwest corner of Broadway and Vesey Streets. Block 88, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

43-99-BZ

APPLICANT – Carl A. Sulfaro, Esq., for White Castle System Inc., owner.

SUBJECT – Application February 25, 2010 – Extension of Term of a Special Permit (§73-243) for the continued operation of an accessory drive-thru to an Eating and Drinking Establishment (*White Castle*) which expired on December 7, 2010; Waiver of Rules. C1-2/R4 zoning district.

PREMISES AFFECTED – 88-02 Northern Boulevard, southwest corner of 88th Street, Block 1436, Lot 001, Borough of Queens.

COMMUNITY BOARD #3Q

APPEALS CALENDAR

184-10-A

APPLICANT – Deidre Duffy, PE, for Breezy Point Cooperative, Incorporated, owner; Mary James Chimenti, lessee.

SUBJECT – Application September 21, 2010 – Proposed construction not fronting a mapped street contrary to General City Law Section 36 within an R4 zoning district.

PREMISES AFFECTED – 20 Olive Walk, West side of Olive Walk, 230.0 feet north of Breezy Point Boulevard. Block 16350, Lot 400. Borough of Queens.

COMMUNITY BOARD #14Q

NOVEMBER 9, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 9, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

140-10-BZ thru 147-10-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Edward Lauria, owner.

SUBJECT – Application August 9, 2010 – Variance (§72-21) to allow four single family homes on lots that does not meet the minimum lot width requirements of ZR §23-32, not fronting a mapped street contrary to General City Law Section 36. R1-2 (NA-1) Zoning district. Companion BZ R1-2 zoning district, NA-1.

PREMISES AFFECTED – 160, 170, 181, 191, Edinboro Road, south of Meisner Avenue, east of intersection Lighthouse Avenue and Edinboro Road, Block 2267, Lot 55(tent), 50, 197, 168, Borough of Staten Island.

COMMUNITY BOARD #2SI

151-10-BZ

APPLICANT – Sheldon Lobel, P.C. for Profile Enterprises, LP, owner; Bamboo Garden Spa, Incorporated, lessee.

SUBJECT – Application August 16, 2010 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (Bamboo Garden Spa) located within an M1-6 zoning district.

PREMISES AFFECTED – 224 West 35th Street, South side of West 35th Street, 225 feet west of Seventh Avenue. Block 784, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #5M

CALENDAR

175-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt's Petroleum, Inc., owner.

SUBJECT – Application September 1, 2010 – Special Permit (§11-411) to permit an Extension of Term of a previously approved Automotive Service Station (UG 16B) which expired on December 18, 2001; Extension of Time to obtain a certificate of occupancy which expired on September 21, 1994; Waiver of the Rules of Practice and Procedures. Located in a R4 zoning district.

PREMISES AFFECTED – 3400 Baychester Avenue, Northeast corner of Baychester and Tillotson Avenue, Block 5257, Lot 47, Borough of Bronx.

COMMUNITY BOARD #12BX

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, OCTOBER 19, 2010
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

752-29-BZ

APPLICANT – Jack Gamill, P.E. for Marial Associates of New Jersey, L.P., owner; Bay Ridge Honda, lessee.

SUBJECT – Application May 21, 2010 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of Automotive Repair and Dealership (*Honda*) which expired on April 22, 2010. C4-2 zoning district.

PREMISES AFFECTED – 8801-8809 4th Avenue, Block 6065, Lot 6. Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: 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, this is an application for a reopening and an extension of term for the continued use of an automotive repair shop and dealership, which expired on April 22, 2010; and

WHEREAS, a public hearing was held on this application on August 24, 2010 after due notice by publication in *The City Record*, with a continued hearing on September 21, 2010, and then to decision on October 19, 2010; and

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

WHEREAS, the site is located on a corner through lot bounded by 88th Street to the north, Fourth Avenue to the west, and 89th Street to the south, within a C4-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1930 when, under the subject calendar number, the Board granted a variance to permit the premises to be occupied by an accessory motor vehicle repair shop building and gasoline service station, for a term of ten years; and

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

WHEREAS, most recently, on May 7, 2002, the Board granted an extension of term for ten years from the expiration of the prior grant, which expired on April 22, 2010; and

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

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

WHEREAS, at hearing, the Board directed the applicant to remove the cars from the sidewalk along 88th Street, and to remove the “No Parking” signs installed by the owner on city-owned property; and

WHEREAS, in response, the applicant states that the cars have been removed from the sidewalk along 88th Street and that the “No Parking” signs installed by the owner have been removed; and

WHEREAS, the Board also requested that the applicant clarify the number of curb cuts accessing the site; and

WHEREAS, in response, the applicant states that there are two curb cuts accessing the site on Fourth Avenue and one curb cut accessing the site on 88th Street, and that the second curb cut on 88th Street accesses the adjacent building, which is not a part of this application; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as amended through May 7, 2002, so that as amended this portion of the resolution shall read: “to extend the term for an additional ten years from April 22, 2010, to expire on April 22, 2020; *on condition* that all use and operations shall substantially conform to BSA-approved plans associated with the prior grant; and *on further condition*:

THAT the term of the grant shall expire on April 22, 2020;

THAT all signage shall comply with C4 zoning district regulations;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 320162220)

Adopted by the Board of Standards and Appeals October 19, 2010.

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656-69-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLC, for JVM Company, LLC, owner.

SUBJECT – Application May 6, 2010 – Extension of Term of a (UG9) parking lot accessory to an existing funeral home establishment which expired on May 27, 2010; Extension of Time to obtain a Certificate of Occupancy; waiver of the rules. R-5 zoning district.

PREMISES AFFECTED – 2617/23 Harway Avenue, aka 208/18 Bay 43rd Street. North west corner Harway Avenue and Bay 43rd Street. Block 6897, Lots 1 & 2, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term for a previously granted variance permitting an accessory parking facility for a funeral establishment, which expired on May 27, 2010; and

WHEREAS, a public hearing was held on this application on September 14, 2010, after due notice by publication in *The City Record*, with a continued hearing on October 5, 2010, and then to decision on October 19, 2010; and

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

WHEREAS, Community Board 13, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the northwest corner of Harway Avenue and Bay 43rd Street, within an R5 zoning district; and

WHEREAS, the site is occupied by a parking lot which is accessory to an existing funeral home; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 10, 1970 when, under the subject calendar number, the Board granted a variance to permit the construction of an off-site accessory parking facility for a funeral establishment for a term of ten years; and

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

WHEREAS, on December 4, 1990, the Board extended the term for ten years and amended the grant to reduce the number of accessory parking spaces from 26 to 19, to eliminate the carport, and to eliminate the requirement to restore the hedges; and

WHEREAS, most recently, on February 6, 2001, the Board extended the term for ten years, to expire on May 27, 2010; and

WHEREAS, the applicant now seeks to extend the term of the variance for an additional ten years; 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 March 10, 1970, so that as amended this portion of the resolution shall read: “to grant an extension of the variance for a term of ten years from May 27, 2010, to expire on May 27, 2020, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked ‘Received September 20, 2010’- (2) sheets; and *on further condition*:

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

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

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

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

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

(Alt. No. 910/68)

Adopted by the Board of Standards and Appeals, October 19, 2010.

558-71-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for WB Management of NY LLC, owner.

SUBJECT – Application March 26, 2010 – Amendment to a previously granted Variance (§72-21) to permit the change of a UG6 eating and drinking establishment to a UG6 retail use without limitation to a single use; minor reduction in floor area; increase accessory parking and increase to the height of the building façade. R3-1 zoning district.

PREMISES AFFECTED – 1949 Richmond Avenue, east side of Richmond Avenue at intersection with Amsterdam Place, Block 2030, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an

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amendment to a previously granted variance to permit, in an R3-1 zoning district, the conversion of an eating and drinking establishment (Use Group 6) to retail use (Use Group 6), the redistribution of floor area, an increase in accessory parking, and an increase in the height of the building façade; and

WHEREAS, a public hearing was held on this application on June 15, 2010, after due notice by publication in *The City Record*, with continued hearings on July 13, 2010, August 17, 2010 and September 21, 2010, and then to decision on October 19, 2010; and

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

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

WHEREAS, the subject site is located on the east side of Richmond Avenue, between Eton Place and Rockland Avenue, within an R3-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 16, 1971 when, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21, to permit the rearrangement of an existing nursery and greenhouse establishment and the addition to the uses to include the sale of agricultural products, contrary to ZR § 22-14; and

WHEREAS, a letter of substantial compliance was issued by the Board on March 25, 2005, to permit interior alterations to facilitate the renovation of the interior display layout; and

WHEREAS, most recently, on August 21, 2007, the Board permitted the conversion of the existing building from a greenhouse with an accessory retail store (Use Group 6) to an eating and drinking establishment (Use Group 6); and

WHEREAS, the applicant now requests that the Board amend the grant to permit the conversion of the eating and drinking establishment (Use Group 6) to retail use without limitation to a single use (Use Group 6); and

WHEREAS, the applicant also seeks to remove 805 sq. ft. of floor area from the southern portion of the existing building and to redistribute 780 sq. ft. of the removed floor area to the western portion of the building, resulting in a 25 sq. ft. reduction in overall floor area; and

WHEREAS, specifically, the applicant proposes to remove 320 sq. ft. of floor area from the rear of the building and an additional 485 sq. ft. of floor area along the southern side of the building by reducing the width of the building by five feet, and to redistribute 780 sq. ft. of the floor area to an enlargement at the front of the building, resulting in a reduction of the floor area from 5,849 sq. ft. to 5,824 sq. ft.; and

WHEREAS, the applicant states that as a result of the alteration of the existing structure, the number of accessory parking spaces provided on the site would be increased from 19 spaces to 24 spaces; and

WHEREAS, the applicant also proposes to increase the height of the building's façade from 15'-2" to 29'-6" fronting Richmond Avenue and 22'-6" for the remainder of the building; and

WHEREAS, the applicant represents that the proposed changes are necessary in order to realize a reasonable return by increasing the commercial viability of the building, which the owner has been unable to lease under its permitted use as an eating and drinking establishment; and

WHEREAS, at hearing, the Board directed the applicant to reduce the height of the façade along Richmond Avenue; and

WHEREAS, in response, the applicant submitted revised plans reflecting a reduction in the height of the building's façade on Richmond Avenue to 25'-6"; and

WHEREAS, the applicant submitted a streetscape reflecting that the adjacent building has a façade with a height of 30'-0"; and

WHEREAS, the applicant also submitted a land use map and photographs reflecting the prevalence of two-story commercial buildings located along Richmond Avenue in the vicinity of the subject site; and

WHEREAS, the applicant also provided photographs reflecting numerous sites in the surrounding area fronting on Richmond Avenue which provide parking at the side and rear of the building, similar to the proposed building; and

WHEREAS, the applicant notes that the site is within an area that is in the process of being rezoned under the proposed Commercial Corridor Rezoning, which was certified on September 13, 2010 and is currently going through the Uniform Land Use Review Process; and

WHEREAS, the applicant states that under the proposed rezoning, the subject site would be located in an R3-1 (C1-2) zoning district; and

WHEREAS, the applicant states that the proposed relocation of floor area to the front of the existing building would result in a front yard of 0'-6", which would be compliant with C1-2 zoning district regulations and in character with other commercial uses fronting Richmond Avenue in the surrounding area; and

WHEREAS, the applicant further states that the proposed development would be compliant with all C1-2 zoning district regulations other than a pre-existing side yard of 7'-0" and a pre-existing rear yard of 5'-8", which were previously approved by the Board; and

WHEREAS, the applicant notes that the pre-existing rear yard abuts Willowbrook Park, which is undeveloped land; 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; and

WHEREAS, accordingly, the Board finds that the proposed variance, as amended, 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 November 16, 1971, so that as amended this portion of the resolution shall read: "to permit the conversion of an eating and drinking establishment (Use Group 6) to retail use without limitation to a single use (Use Group 6), the redistribution of floor area, an increase in accessory parking from 19 spaces to 24 spaces, and

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an increase in the height of the building façade, as indicated on the approved plans; *on condition* that all work shall substantially conform to drawings filed with this application and marked ‘Received June 30, 2010’-(1) sheet, ‘August 3, 2010’-(2) sheets, ‘August 9, 2010’-(1) sheet and ‘September 30, 2010’-(1) sheet; and *on further condition*:

THAT substantial construction shall be completed by October 19, 2014;

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. 520018436)

Adopted by the Board of Standards and Appeals, October 19, 2010.

322-98-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for HUSA Management Company, LLC, owner; TSI West 125 LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application May 26, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the operation of a Physical Culture Establishment (*New York Sports Club*) which expired on March 23, 2009; Amendment to legalize the increase in floor area; Waiver of the Rules. C4-4(125) zoning district.

PREMISES AFFECTED – 300 West 125th Street, south side of West 12th Street between Saint Nicholas Avenue and Fredericks Douglas Boulevard, Block 1951, Lots 22, 25, 27, 28, 29, 33, 39, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term of a previously granted special permit for a physical culture establishment (PCE), operated by New York Sports Club, which expired on March 23, 2009, and an amendment to legalize an increase in floor area of the PCE; and

WHEREAS, a public hearing was held on this application on September 14, 2010, after due notice by publication in *The City Record*, with a continued hearing on October 5, 2010, and then to decision on October 19, 2010; and

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

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

WHEREAS, the PCE is located on the south side of West 125th Street, between St. Nicholas Avenue and Frederick Douglas Boulevard, in a C4-4D zoning district within the Special 125th Street District; and

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

WHEREAS, the PCE occupies 21,502 sq. ft. of floor area on the first and fourth floor of the subject building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 23, 1999 when, under the subject calendar number, the Board granted a special permit for a PCE in the subject building for a term of ten years, which expired on March 23, 2009; and

WHEREAS, on February 15, 2005, the Board granted an amendment to permit a 5,343 sq. ft. expansion of the PCE on the fourth floor in order to allow for the construction of a basketball court; and

WHEREAS, the applicant states that the proposed basketball court was never constructed and the PCE continued to operate as originally approved, with a total floor area of 20,902 sq. ft.; and

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

WHEREAS, the applicant also seeks an amendment to legalize the enlargement of the PCE at the southwest corner of the fourth floor for an additional workout area, which results in a 600 sq. ft. increase in the floor area of the PCE, for a total floor area of 21,502 sq. ft.; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on March 23, 1999, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from March 23, 2009, to expire on March 23, 2019, and to permit the noted increase in floor area of the PCE, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked ‘Received May 26, 2010’- (4) sheets and ‘September 20, 2010’-(1) sheet; and *on further condition*:

THAT the term of this grant shall expire on March 23, 2019;

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 101835016)

Adopted by the Board of Standards and Appeals, October 19, 2010.

161-00-BZ

APPLICANT – Stuart A. Klein, Esquire, for Stellar Sutton, LLC, owner; Mario Badescu Skin, Incorporated, lessee.

SUBJECT – Application June 9, 2010 – Extension of Term of a previously granted Variance (§72-21) for the operation of a Physical Culture Establishment (*Bodescu Skin Care*) which expired on June 2, 2010; Extension of Time to obtain a Certificate of Occupancy. R8B zoning district.

R8B zoning district.

PREMISES AFFECTED – 320 East 52nd Street, between 1st and 2nd Avenue, Block 1344, Lot 41, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Jay Goldstein.

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, an extension of term of a previously granted special permit for a physical culture establishment (PCE), which expired on June 2, 2010, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on September 14, 2010, after due notice by publication in *The City Record*, with a continued hearing on October 5, 2010, and then to closure and decision on October 19, 2010; and

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

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

WHEREAS, the PCE is located on the south side of East 52nd street, between First Avenue and Second Avenue, within an R8B zoning district; and

WHEREAS, the site is occupied by a 13-story (including penthouse) residential building; and

WHEREAS, the PCE use is located in the cellar and occupies a total floor space of 4,915 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over

the subject site since December 12, 2000 when, under the subject calendar number, the Board granted a variance to legalize a PCE in the subject building for a term of ten years, to expire on June 2, 2010; and

WHEREAS, a condition of the grant was that fire protection systems, including an automatic wet sprinkler system, an interior fire alarm system, and a smoke detection system be installed throughout the entire cellar within two years of the grant, which expired on December 12, 2002; and

WHEREAS, on March 18, 2003, the Board granted an extension of time to install fire protection measures and obtain a certificate of occupancy, which expired December 12, 2003, and granted an amendment to permit a change in ownership of the PCE; and

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

WHEREAS, the applicant submitted a letter from its fire alarm system specialist stating that all fire protection systems required in the previous grant have been installed and approved by the Fire Department; and

WHEREAS, the applicant also submitted photographs reflecting the installation of the required fire protection systems; and

WHEREAS, based upon its review of the record, the Board finds 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 *reopens* and *amends* the resolution, as adopted on June 2, 2000, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from June 2, 2010, to expire on June 2, 2020, and to extend the time to obtain a certificate of occupancy for one year from the date of this grant, to expire on October 19, 2011, *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT the term of this grant shall expire on June 2, 2020;

THAT a certificate of occupancy shall be obtained by October 19, 2011;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 102889297)

Adopted by the Board of Standards and Appeals, October 19, 2010.

MINUTES

181-06-BZ

APPLICANT – Goldman Harris LLC, for 471 VE LLC c/o Vella Group, owner; 471 VE LLC c/o Vella Group, lessee.

SUBJECT – Application September 21, 2010 – Amendment to a previously granted Variance (§72-21) to change the permitted ground floor retail to residential in a nine-story building. M1-5/Area B-2 (TMU) zoning district.

PREMISES AFFECTED – 471 Washington Street, southeast corner of Washington Street and Canal Street, Block 595, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Vivian Kreiger.

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, in an M1-5 zoning district within Area B2 of the Special Tribeca Mixed Use District, a nine-story residential building with retail use on the first floor, contrary to ZR §§ 42-00 and 111-104(d); and

WHEREAS, a public hearing was held on this application on September 21, 2010, after due notice by publication in *The City Record*, and then to decision on October 19, 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 1, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the southeast corner of Washington Street and Canal Street; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 13, 2007 when, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21, which permitted, in an M1-5 zoning district within Area B2 of the Special Tribeca Mixed Use District, the construction of a nine-story residential building with retail use on the first floor and seven dwelling units above, contrary to ZR §§ 42-00 and 111-04(d); and

WHEREAS, a letter of substantial compliance was issued by the Board on April 12, 2010, to permit an increase in the number of units in the proposed building from seven to 12, by subdividing the single dwelling unit on the second floor into three units, and subdividing the single dwelling units on the third, fourth and fifth floors into two units each; and

WHEREAS, the applicant now requests that the Board amend the grant to permit the ground floor to be occupied by residential use instead of the approved retail use; and

WHEREAS, the applicant states that the amendment is necessary in order for the site to realize a reasonable return,

because there is not enough demand for commercial space in the immediate area and retail use is not feasible; and

WHEREAS, the applicant submitted a financial analysis which reflects that retail space at the ground floor has proved infeasible due to the site's location on one of the busiest vehicular sections of Canal Street, the lack of proximity of any retail uses in adjacent buildings on any of the surrounding streets, and the irregular shape of the lot and grade changes which limit the retail access and frontage; and

WHEREAS, the applicant states that the proposed change in the permitted use of the ground floor from commercial retail to residential will result in an increase in the residential floor area ratio ("FAR") from 4.53 to 4.99, but that the overall FAR of the building will remain at 4.99 and the number of units will remain at 12, in accordance with the prior grant; and

WHEREAS, the applicant notes that the site is within an area that is in the process of being rezoned under the North Tribeca Proposed Rezoning, which was certified on June 7, 2010 and is currently going through the Uniform Land Use Review Process; and

WHEREAS, the applicant states that under the proposed rezoning, the subject site would be located in a C6-2A zoning district within Subarea A5 of the Tribeca Mixed-Use District, where residential use would be permitted on all floors, including the proposed ground floor residential use; 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; and

WHEREAS, accordingly, the Board finds that the proposed variance, as amended, is appropriate, with certain conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, dated February 13, 2007, so that as amended this portion of the resolution shall read: "to permit the ground floor of the subject building to be occupied by residential use; *on condition* that all work shall substantially conform to drawings filed with this application and marked "Received August 16, 2010"-(2) sheets; and *on further condition*:

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 104439546)

Adopted by the Board of Standards and Appeals, October 19, 2010.

MINUTES

141-08-BZ

APPLICANT – Sheldon Lobel, PC, for DoRay 46, Incorporated, owner.

SUBJECT – Application May 7, 2008 – Dismissal for Lack of Prosecution - Variance (§72-21) to allow for a mixed use building contrary to floor area, lot coverage (§23-145), height (§35-24), and street wall requirements (§101-41). R6A/C2-4 zoning district, DB.

PREMISES AFFECTED – 46-48 Third Avenue, northeast corner of the intersection of Third Avenue and Atlantic Avenue, Block 185, Lot 25, 26, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: None.

ACTION OF THE BOARD – Application dismissed for lack of prosecution.

THE VOTE TO DISMISS –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Superintendent, dated May 2, 2008, acting on Department of Buildings Application No. 302179130, reads in pertinent part:

“Z.R. Sec. 23-145; Total development floor area is requested to be 13,998 sq. ft. for a floor area ratio of 6.36. Lot coverage is requested to be 90%.

Z.R. Sec 35-24; Proposed building base height is requested to be 74 feet, with maximum building height of 88 feet at the top of the penthouse.

Z.R. Sec 101-41(b); Proposed street wall height is requested to be 64 feet;” and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R6A/C2-4 zoning district within the Special Downtown Brooklyn District, Atlantic Avenue Subdistrict, the construction of a mixed use commercial and residential building which does not comply with the zoning regulations for floor area ratio and height, contrary to ZR §§ 33-122, 35-24 and 101-41(b); and

WHEREAS, the variance application was filed on May 7, 2008; and

WHEREAS, in June 2008, Board staff was verbally notified by the applicant that the proposal was being revised and to place the application on hold; and

WHEREAS, the Board did not receive any subsequent communication from the applicant; and

WHEREAS, on August 24, 2010, Board staff issued a letter notifying the applicant that if a revised proposal was not received by September 24, 2010 the application would be scheduled for a dismissal hearing; and

WHEREAS, the Board did not receive any subsequent response from the applicant; and

WHEREAS, accordingly, the Board placed the matter on the calendar for dismissal; and

WHEREAS, on September 14, 2010, the Board sent the applicant a notice stating that the case had been put on the October 19, 2010 dismissal calendar; and

WHEREAS, the applicant did not appear at the hearing on October 19, 2010; and

WHEREAS, accordingly, due to the applicant’s lack of good faith prosecution of this application, it must be dismissed in its entirety.

Therefore it is Resolved that the application filed under BSA Cal. No. 141-08-BZ is hereby dismissed for lack of prosecution.

Adopted by the Board of Standards and Appeals, October 19, 2010.

74-49-BZ

APPLICANT – Sheldon Lobel, P.C., for 515 Seventh Associates, owners.

SUBJECT – Application January 19, 2010 – Extension of Time to obtain a Certificate of Occupancy for an existing parking garage which expired on September 17, 2009; Waiver of the Rules. M1-6 (Garment Center) zoning district.

PREMISES AFFECTED – 515 Seventh Avenue, southeast corner of the intersection of Seventh Avenue and West 38th Street, Block 813, Lot 64, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Calvin Wong.

For Administration: Amanda Perr, Department of Buildings.

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

826-86-BZ, 827-86-BZ and 828-86-BZ

APPLICANT – Eric Palatnik, for North Shore Tower Apartment, Inc., owner; Continental Communications, lessee.

SUBJECT – Application August 26, 2010 – Extension of Time to obtain a Certificate of Occupancy which expired on July 26, 2010 for a Special Permit (§73-11) to allow non-accessory radio towers and transmitting equipment on the roof of a 33-story multiple dwelling (*North Shore Towers*). R3-2 zoning district

PREMISES AFFECTED – 269-10, 270-10, 271-10 Grand Central Parkway, northeast corner of 267th Street, Block 8489, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

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 October 26, 2010, at 10 A.M., for decision, hearing closed.

MINUTES

294-99-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, for 521 5th Avenue Partners, LLC, owner; Equinox- 43rd Street, Incorporated, lessee.

SUBJECT – Application June 1, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*Equinox*) which expired on May 9, 2010. C5-3(MID) & C5-2.5(MID) zoning district.

PREMISES AFFECTED – 521 5th Avenue, north east corner of 5th Avenue and East 43rd Street, Block 1278, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 16, 2010, at 10 A.M., for decision, hearing closed.

180-99-BZ

APPLICANT – Michael T. Cetera, AIA, for Geulah, LLC, owner.

SUBJECT – Application June 4, 2010 – Extension of Term of a previously granted Variance (§72-21) for a non-conforming (UG9A) catering establishment which expired on April 4, 2010; waiver of the rules. R6 zoning district.

PREMISES AFFECTED – 564/66 East New York Avenue, south side, 329’-7” east of Brooklyn Avenue, Block 4793, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Michael T. Cetera.

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

344-03-BZ

APPLICANT – Goldman, Harris LLC, for City of New York, owner; Nick’s Lobster House, lessee.

SUBJECT – Application August 11, 2010 – Extension of Term of a Special Permit (§73-242) permitting an eating and drinking establishment which expired on July 12, 2010. C3 zoning district.

PREMISES AFFECTED – 2777 Flatbush Avenue, between Flatbush and Mill Basin, Block 8591, Lot p/o 980, p/o 175, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Vivien Krieger.

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

175-05-BZ

APPLICANT – Eric Palatnik, P.C., for Athanasios Amaxus, owner.

SUBJECT – Application September 9, 2010 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) to construct a four-story multiple dwelling with accessory parking which expires on January 9, 2011. M1-1 zoning district.

PREMISES AFFECTED – 18-24 Luquer Street, between Hicks Street and Columbia Street, Block 520, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #16BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

369-05-BZ

APPLICANT – Eric Palatnik, P.C., for Randy Lee, owner.

SUBJECT – Application September 9, 2010 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) to construct a four-story multiple dwelling which expires on October 17, 2010. R3-2(HS) zoning district.

PREMISES AFFECTED – 908 Clove Road, between Broadway and Bement Avenue, Block 323, Lot 42, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palantik.

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 October 26, 2010, at 10 A.M., for decision, hearing closed.

238-07-BZ

APPLICANT – Goldman Harris LLC, for OCA Long Island City LLC; OCAII & III c/o O’Connor Capital, owner.

SUBJECT – Application July 1, 2010 – Amendment of a previously approved Variance (§72-21) to permit a residential/commercial building and community facility/dormitory building. The amendment will divide the project into two separate buildings and allow the construction and occupancy of one building prior to the construction and occupancy of the other. M-4/R6A (LIC) and M1-4 zoning districts.

PREMISES AFFECTED – 5-11 47th Avenue, 46th Road at north, 47th Avenue at south, 5th Avenue at west, Vernon Boulevard at east. Block 28, Lot 12, 15, 17, 18, 21, 38, Borough of Queens

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Vivian Krieger.

MINUTES

ACTION OF THE BOARD – Laid over to January 11, 2011, at 10 A.M., for postponed hearing.

APPEALS CALENDAR

110-10-BZY

APPLICANT – Cozen O’Connor, for Landmark Developers of Rockaway, owners.

SUBJECT – Application June 18, 2010 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior R6 zoning. R5A zoning district

PREMISES AFFECTED – 93-06 Shore Front Parkway, north side of Shore Front Parkway from B.94th to B.93rd Street, Block 16130, Lot 11, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Peter Geis.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application under ZR § 11-332, to permit an extension of time to complete construction and obtain a certificate of occupancy for a six-story residential building currently under construction at the subject site; and

WHEREAS, a public hearing was held on this application on August 17, 2010, after due notice by publication in *The City Record*, with a continued hearing on October 5, 2010, and then to decision on October 19, 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 14, Queens, recommends disapproval of this application; and

WHEREAS, certain members of the community provided testimony in opposition to this application (hereinafter, the “Opposition”), citing concerns that the proposed building does not fit within the character of the neighborhood and that the site has not been properly maintained and is in poor condition; and

WHEREAS, the subject site is located on the north side of Shore Front Parkway, between Beach 93rd Street and Beach 94th Street; and

WHEREAS, the subject site has approximately 107 feet of frontage along Shore Front Parkway, a depth ranging from 167 feet to 175 feet, and a total lot area of 18,488 sq. ft.; and

WHEREAS, the site is proposed to be developed with a six-story residential building with 57 dwelling units and 36 accessory parking spaces (the “Proposed Development”); and

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

WHEREAS, on January 8, 2007, New Building Permit

No. 402483013-01-NB (hereinafter, the “New Building Permit”) was issued by the Department of Buildings (“DOB”) permitting construction of the Building; and

WHEREAS, however, on August 14, 2008 (hereinafter, the “Enactment Date”), the City Council voted to adopt the Rockaway Neighborhoods Rezoning, which rezoned the site from R6 to R5A; and

WHEREAS, as of that date, the applicant had obtained permits for the development and had completed 100 percent of its foundations, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows DOB to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are allowed for completion of construction and to obtain a certificate of occupancy; and

WHEREAS, accordingly, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-30 *et seq.*, which sets forth the regulations that apply to a reinstatement of a permit that lapses due to a zoning change; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as the proposed development, which involves the construction of a single building which is non-complying under an amendment to the Zoning Resolution, as a “minor development”; and

WHEREAS, for a “minor development,” an extension of time to complete construction, previously authorized under a grant for an extension made pursuant to ZR § 11-331, may be granted by the Board pursuant to ZR § 11-332; and

WHEREAS, ZR § 11-332 reads, in pertinent part: “In the event that construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefore within two years after the effective date of any applicable amendment . . . the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew such building permit for . . . three terms of not more than two years each for a major development . . . In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit.”; and

WHEREAS, the applicant represents that all of the relevant DOB permits were lawfully issued to the owner of the subject premises; and

WHEREAS, by letter dated August 17, 2010, DOB stated that the New Building Permit was lawfully issued, authorizing construction of the proposed Building prior to the Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the New Building Permit was lawfully issued to the owner of the subject premises prior to the Enactment Date and was timely renewed until the expiration of the two-year term

MINUTES

for construction; and

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

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

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

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

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

WHEREAS, the applicant states that work on the Proposed Development subsequent to the issuance of the permits includes: 100 percent of the excavation; 100 percent of the foundation (including the installation of over 300 driven piles); and the installation of a complex drainage system; and

WHEREAS, in support of this statement, the applicant has submitted the following: a breakdown of the construction costs by line item; a foundation survey; copies of cancelled checks; invoices; and photographs of the site; and

WHEREAS, the Board has reviewed all documentation and agrees that it establishes that the aforementioned work was completed subsequent to the issuance of the valid permits; and

WHEREAS, as to costs, the applicant represents that the total expenditure paid for the development is \$2,968,614 (including \$1,474,974 in hard costs), or 17 percent, out of the \$17,610,614 cost to complete; and

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

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

WHEREAS, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since the issuance of the permits; and

WHEREAS, therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR § 11-332, and that the owner is entitled to the requested reinstatement of the permits, and all other permits necessary to complete the proposed development; and

WHEREAS, in response to the concerns raised by the Opposition regarding the site conditions and maintenance, the applicant states that the subject site is regularly visited by a maintenance person, that the majority of water runoff is accommodated by the surrounding sand and any excess water is pumped from the site, and that there are currently three open

violations for the site, one of which is an unidentified construction violation from March 2007, while the other two relate to an expired fence permit; and

WHEREAS, as to the Opposition's concerns about neighborhood character, the applicant states that the Proposed Development fits within the character of the surrounding area, which includes a number of six- to 12-story residential buildings; and

WHEREAS, the applicant further states that even if the proposed building is out of context with the surrounding neighborhood, that is not a relevant consideration in an application for an extension of time to complete construction under ZR §11-332; and

WHEREAS, the Board notes that the subject site was initially vested by DOB, and that the applicant now only seeks an extension of time to complete construction and obtain a certificate of occupancy under ZR § 11-332; and

WHEREAS, while the Board is not swayed by any of the Opposition's arguments, it nevertheless understands that the community residents and elected officials worked diligently on the Rockaway Neighborhoods Rezoning and that the Proposed Development does not comply with the new zoning parameters; and

WHEREAS, accordingly, the Board, through this resolution, grants the owner of the site a two-year extension of time to complete construction, pursuant to ZR § 11-332.

Therefore it is Resolved that this application made pursuant to ZR § 11-332 to renew Permit No. 402483013-01-NB, as well as all related permits for various work types either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed development and obtain a certificate of occupancy for one term of two years from the date of this resolution, to expire on October 19, 2012.

Adopted by the Board of Standards and Appeals, October 19, 2010.

366-05-A

APPLICANT – Deirdre A. Carson, for Greenberg Traurig, LLP, for Prospect Terrace, LLC, owner.

SUBJECT – Application August 20, 2010 – Extension of time to complete construction and obtain a Certificate of Occupancy for a previously-granted vesting application under the Common Law which expired on August 22, 2010. R5 previous zoning districts; R5-B current zoning district. PREMISES AFFECTED – 1638 8th Avenue, east side of Eighth Avenue, between Windsor Place and Prospect Avenue, Block 1112, Lots 52 & 54, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Deirdra A. Carson.

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 November

MINUTES

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

38-10-A

APPLICANT – Jack Lester, Esquire for Anthony Naletilic.
OWNER – K.J. Chung/Jesus Covent Church.

SUBJECT – Application March 22, 2010 – Appeal challenging the Department of Building's issuance of a building permit to allow for the waiver of parking per §25-35 for a house of worship/community facility. R2A zoning district.

PREMISES AFFECTED – 26-18 210th Street, corner lot on 27th Avenue and 210th Street, Block 5992, Lot 36, Borough of Queens.

COMMUNITY BOARD #11Q

For Applicant: Jack Lester, Joseph Lobowo, Anthony Naletilic and Henry Euler.

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 December 7, 2010, at 10 A.M., for decision, hearing closed.

111-10-A

APPLICANT – Victor K. Han, R.A., AIA, for Seungho Kim, owner.

SUBJECT – Application June 18, 2010 – Appeal challenging Department of Building's determination that a proposed hotel does not meet the requirements of §32-14 and is therefore not permitted. C2-2 zoning district.

PREMISES AFFECTED – 211-08 Northern Boulevard, southeast side of Northern Boulevard, southeast of 211th Street, Block 7313, Lot 5, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Victor Han.

For Opposition: Henry Euler.

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 November 16, 2010, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING TUESDAY AFTERNOON, OCTOBER 19, 2010 1:30 P.M.

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

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 yard regulations (§23-48). R-5 zoning district.

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

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – 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 March 16, 2010, acting on Department of Buildings Application No. 420004088, reads in pertinent part:

“Proposed two-family residence in an R5 zoning district on an existing small lot, pursuant to ZR Section 23-33, provides side yards less than minimum required pursuant to ZR Section 23-48;” and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R5 zoning district, the proposed construction of a three-story two-family home that does not provide the required side yards, contrary to ZR § 23-48; and

WHEREAS, a public hearing was held on this application on February 2, 2010, after due notice by publication in *The City Record*, with continued hearings on March 9, 2010, April 27, 2010, May 18, 2010, July 13, 2010, August 3, 2010, August 17, 2010 and October 5, 2010, and then to decision on October 19, 2010; and

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

WHEREAS, Community Board 1, Queens, recommends approval of this application with the following conditions: (1) that a 5'-0” side yard be provided; and (2) that the applicant not exceed a floor area ratio (“FAR”) of 1.25; and

WHEREAS, Queens Borough President Helen Marshall

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recommends approval of this application; and

WHEREAS, the site is located on the east side of 44th Street, between 25th Avenue and 28th Avenue; and

WHEREAS, the site has a width of 25 feet, a depth of 100 feet, and a total lot area of approximately 2,500 sq. ft.; and

WHEREAS, the site is currently occupied with a one-story single-family home with no side yards, which will be demolished; and

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

WHEREAS, the proposed home will have the following complying parameters: 3,120 sq. ft. of floor area (1.24 FAR); an open space of 59 percent; a lot coverage of 41 percent; a front yard with a depth of 10'-0"; a rear yard with a depth of 38'-0"; a wall height of 30'-0"; and a total height of 36'-6"; and

WHEREAS, however, the applicant proposes to provide one side yard with a width of 5'-0" along the southern lot line, and no side yard along the northern lot line, (side yards with minimum widths of 5'-0" each are required); and

WHEREAS, the applicant initially proposed to construct a home with 3,432 sq. ft. of floor area (1.34 FAR), a front yard with a depth of 18'-0", a side yard with a width of 3'-0" along the southern lot line, no side yard along the northern lot line, and a rear yard with a depth of 30'-0"; and

WHEREAS, at the Board's direction, the applicant reduced the FAR of the home and provided a larger side yard which reduced the width of the proposed home to 20'-0"; and

WHEREAS, the applicant also revised the plans to shift the proposed home forward in order to provide an additional 8'-0" of rear yard depth, which resulted in a corresponding 8'-0" decrease in front yard depth; and

WHEREAS, at hearing, the Board questioned whether the slope of the front yard driveway ramp complied with the underlying zoning regulations following the decrease in front yard depth from 18'-0" to 10'-0"; and

WHEREAS, in response, the applicant states that the proposed driveway grade complies with ZR § 25-635; and

WHEREAS, the Board notes that the slope of the front yard driveway and garage will be as approved by DOB and no waiver is sought for that condition; and

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

WHEREAS, the Board notes that ZR § 23-33 eliminates lot area and width requirements for two-family homes in an R5 zoning district where the zoning lot was owned separately and individually from all adjoining tracts of land both on December 15, 1961 and on the date of the application for a building permit; and

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

WHEREAS, the Board notes that ZR § 23-33 would eliminate a lot area and width requirement for a two-family dwelling, but not the side yard objection; and

WHEREAS, the applicant states that side yard relief is

necessary, for reasons stated below; thus, the instant application was filed; and

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 narrowness of the subject site; and

WHEREAS, the applicant represents that the requested side yard waiver is necessary to develop the site with a habitable home; and

WHEREAS, specifically, the applicant represents that the pre-existing lot width of 25'-0" cannot feasibly accommodate a complying development; and

WHEREAS, the applicant states that if both required side yards were provided, the building would have an exterior width of only 15'-0" which would result in an interior width of approximately 13'-0" and floor plates that narrow to approximately ten feet due to interior staircases; and

WHEREAS, accordingly, the applicant represents that the side yard waiver is necessary to create a home of a reasonable width; and

WHEREAS, the applicant submitted a survey of the surrounding lots which reflected that the homes in the study area have an average width of approximately 21'-0", and therefore an as-of-right home on the subject lot would be nearly 30 percent narrower than the average building in the surrounding area; and

WHEREAS, the survey submitted by the applicant also reflected that the average total side yards for homes in the surrounding area is only 3'-0", while approximately 98 percent of the homes in the study area provide less than 10'-0" in total side yards, and 72 percent of the homes in the area provide less than 5'-0" in total side yards; and

WHEREAS, the applicant states that the demolition of the existing home on the site is appropriate because it is an 'L'-shaped one-story non-complying structure at the rear of the property that is significantly undersized with a floor area of only 695 sq. ft., and it cannot be enlarged or expanded because it is built in the rear yard and does not provide side yards or a rear yard; 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 side yard regulations; and

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

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

WHEREAS, the applicant submitted a radius diagram reflecting that the surrounding neighborhood is characterized by single-family to three-family homes; 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 other than side yards; and

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

WHEREAS, the applicant states that the proposed home has a width of 20'-0", and the lot survey submitted by the applicant reflects that the homes in the surrounding area have an average width of approximately 21'-0"; 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 applicant states that the unnecessary hardship encountered by compliance with the zoning regulations is inherent to the site's narrow width; 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 historic lot dimensions; and

WHEREAS, as noted above, the applicant initially proposed a home with 3,432 sq. ft. of floor area (1.34 FAR), a side yard with a width of 3'-0" along the southern lot line, and no side yard along the northern lot line; and

WHEREAS, during the course of the hearing process, the applicant revised the drawings at the Board's direction to reduce the FAR of the home, and to provide a larger side yard which reduced the width of the home to the proposed 20'-0"; and

WHEREAS, the Board finds that this proposal, which complies with all zoning regulations except for side yards 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, in an R5 zoning district, the proposed construction of a three-story two-family home that does not provide the required side yards, contrary to ZR § 23-48; *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 September 29, 2010"– (12) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: a maximum of 3,120 sq. ft. of floor area (1.24 FAR), a side yard with a width of 5'-0" along the southern lot line; no side yard along the northern lot line; a front yard with a depth of 10'-0"; a rear yard with a depth of 38'-0"; a wall height of 30'-0"; a total height of 36'-6"; and parking for two cars, as per the BSA-approved plans;

THAT the internal floor layouts on each floor of the proposed building shall be subject to DOB review and approval;

THAT the slope of the front yard driveway and garage shall be subject to DOB review and approval;

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, October 19, 2010.

105-10-BZ

APPLICANT – Eric Palatnik, for Misha Keylin, owner.

SUBJECT – Application October 2, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to side yard regulations (§23-461). R-4A/C1-3 (BRSD) zoning district.

PREMISES AFFECTED – 269 77th Street, between 3rd Avenue and Ridge Boulevard, Block 5949, Lot 54, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 25, 2010, acting on Department of Buildings Application No. 320088221, reads:

“Proposed side yard is contrary to ZR 23-461 and therefore must be referred to the NYC BSA for a special permit pursuant to ZR Section 73-622;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in a C1-3 (R4A) zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR § 23-461; and

WHEREAS, a public hearing was held on this application on October 5, 2010 after due notice by publication in *The City Record*, and then to decision on October 19, 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 10, Brooklyn, recommends disapproval of this application, citing concerns that the proposed roof terrace above the first floor would

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impede upon the adjacent neighbor's privacy; and

WHEREAS, the adjacent neighbor provided oral testimony in opposition to this application, citing concerns that the proposed second floor terrace would invade their privacy and block their light and air; and

WHEREAS, the subject site is located on the north side of 77th Street, between Third Avenue and Ridge Boulevard, within a C1-3 (R4A) zoning district; and

WHEREAS, the subject site has a total lot area of 2,187 sq. ft., and is occupied by a single-family home with a floor area of 1,519 sq. ft. (0.69 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 1,519 sq. ft. (0.69 FAR) to 1,555 sq. ft. (0.70 FAR); the maximum permitted floor area is 2,268 sq. ft. (1.04 FAR); and

WHEREAS, the applicant proposes to maintain the existing non-complying side yards with a width of 4'-0 1/2" along the western lot line and no side yard along the eastern lot line (two side yards with a total width of 10'-0" and a minimum width of 2'-0" each are required); and

WHEREAS, as to the concerns raised by the Community Board and the adjacent neighbor, the Board notes that the proposed enlargement is minimal and that the proposed roof terrace above the first floor at the rear of the home is subject to Department of Buildings ("DOB") approval; and

WHEREAS, the Board further notes that at hearing the applicant offered to install a privacy screen at the proposed roof terrace to address the adjacent neighbor's concerns regarding privacy, but that the offer was rejected due to the neighbor's concerns about an increased impact on their light and air; 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 a C1-3 (R4A) zoning district, the enlargement of a single-family home, which

does not comply with the zoning requirements for side yards, contrary to ZR § 23-461; *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 September 30, 2010"-(9) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of 1,555 sq. ft. (0.70 FAR); a side yard with a minimum width of 4'-0 1/2" along the western lot line; and no side yard along the eastern lot line, 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, October 19, 2010.

106-10-BZ

CEQR #10-BSA-079Q

APPLICANT – Sheldon Lobel, P.C., for Ka Won Realty Corporation, owner; Harmony Spa, lessee.

SUBJECT – Application June 9, 2010 – Special Permit (§73-36) to legalize a physical culture establishment (*Harmony Spa*) on the third floor of an existing four-story commercial building. M1-6 zoning district.

PREMISES AFFECTED – 240 West 38th Street, 3rd Floor, Located on south side of West 38th Street between 7th and 8th Avenue. Block 787, Lot 64, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Superintendent, dated September 20, 2010, acting on Department of Buildings Application No. 120231007, reads in pertinent part:

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“Proposed physical cultural & health establishment is not permitted as-of-right in M1-6 zoning district and it is contrary to ZR 42-10. BSA special permit is required as per ZR 73-36;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site in an M1-6 zoning district within the Special Garment Center District, the legalization of a physical culture establishment (“PCE”) on the third floor of a four-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on August 17, 2010 after due notice by publication in *The City Record*, with a continued hearing on September 21, 2010, and then to decision on October 19, 2010; and

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

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of West 38th Street, between Seventh Avenue and Eighth Avenue, in an M1-6 zoning district within the Special Garment Center District; and

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

WHEREAS, the proposed PCE will occupy a total floor area of 1,570 sq. ft. on the third floor of the subject building; and

WHEREAS, the PCE will be operated as Harmony Spa; and

WHEREAS, the proposed hours of operation are 10:00 a.m. to 12:00 a.m., daily; and

WHEREAS, the applicant represents that the services at the PCE include facilities for the practice of massage; and

WHEREAS, the applicant notes that the subject site is located within Preservation Area P-1 of the Special Garment Center District, but states that the Special Garment Center District regulations do not restrict the use of the third floor of the subject building for the proposed PCE use; and

WHEREAS, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

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

WHEREAS, therefore, the Board has determined that

the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the Board notes that the PCE has been in operation since June 2, 2009, without a special permit; and

WHEREAS, accordingly, the Board has determined that the term of the grant shall be reduced for the period of time between June 2, 2009 and the date of this grant; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 17.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No.10BSA079Q, dated August 4, 2010; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site in an M1-6 zoning district within the Special Garment Center District, the legalization of a physical culture establishment on the third floor of an existing four-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received August 4, 2010” – Four (4) sheets; and *on further condition*:

THAT the term of this grant shall expire on June 2, 2019;

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

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

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

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

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

THAT this approval is limited to the relief granted by

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the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

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

Adopted by the Board of Standards and Appeals, October 19, 2010.

112-10-BZ

CEQR #10-BSA-081K

APPLICANT – Sheldon Lobel, P.C., for John Grant, owner.
SUBJECT – Application June 18, 2010 – Special Permit (§73-44) to permit reduction in required parking in connection with change of use from UG 16 to UG 6 in an existing building. M1-1 zoning district.

PREMISES AFFECTED – 915 Dean Street, north side of Dean Street between Classon and Grand Avenues, Block 1133, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 19, 2010, acting on Department of Buildings Application No. 320155522, reads in pertinent part:

“Proposed number of accessory parking spaces for the building at the premises is less than required pursuant to ZR 44-21”; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within an M1-1 zoning district, a reduction in the required number of accessory parking spaces for a proposed conversion of the second story of a two-story building from Use Group 16 warehouse to UG 6 professional office building parking category B1, from 38 to 28 attended spaces, contrary to ZR § 44-21; and

WHEREAS, a public hearing was held on this application on September 21, 2010, after due notice by publication in *The City Record*, and then to decision on October 19, 2010; and

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

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

WHEREAS, the subject site is located on the north side of Dean Street, between Classon Avenue and Grand Avenue, and has a lot area of 11,440 sq. ft.; and

WHEREAS, the site is currently occupied by an 11,414 sq. ft. two-story building with professional offices on the first floor and warehouse/storage on the second floor with open parking for 21 vehicles; and

WHEREAS, the applicant proposes to convert the entire 5,707 sq. ft. second floor to UG 6 professional offices; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject M1-1 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for Use Group 6 uses in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 44-21 the total number of required parking spaces for the existing and proposed office use at the site is 38; and

WHEREAS, the applicant represents that the proposed use of the site does not require 38 accessory parking spaces; and

WHEREAS, the applicant states that the immediate vicinity is served by numerous bus lines and subway lines, as well as the Long Island Rail Road; and

WHEREAS, based on the facility’s users (dialysis patients) it is anticipated that many users will arrive by mass transit or be dropped off via ambulette, car service or taxi, lessening the demand for on-site parking; and

WHEREAS, the proposed second floor of the office building (Use Group 6) on the premises will occupy 5,707 sq. ft., and under the special permit authorized by ZR § 73-44 the number of parking spaces could be reduced to 19 for the proposed use; and

WHEREAS, the applicant proposes to provide a total of 28 attended parking spaces; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the Use Group 6 use in the B1 parking category is contemplated in good faith; and

WHEREAS, the applicant has submitted an affidavit from the owner of the premises stating that the second floor will be used for Use Group 6 professional offices; and

WHEREAS, in addition, the applicant states that any Certificate of Occupancy for the building will state that no subsequent Certificate of Occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, the applicant has submitted sufficient evidence of good faith in limiting the use of the premises to professional offices; and

WHEREAS, the Board agrees that the accessory parking space needs can be accommodated even with the parking reduction; and

WHEREAS, based upon the above, the Board finds

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted 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) CEQR No.10BSA081K, dated June 18, 2010; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §§ 73-44 and 73-03, to permit, within a M1-1 zoning district, a reduction in the required number of accessory parking spaces for conversion of the second story of a two-story building from Use Group 16 warehouse to UG 6 professional office building from 38 to 28 attended spaces, contrary to ZR § 44-21; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received October 12, 2010"- (2) sheets and *on further condition*:

THAT there shall be no change in ownership of the site or the building without prior application to and approval from the Board;

THAT a minimum of 28 attended parking spaces shall be provided in the accessory parking lot for the proposed use;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

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

THAT any building enlargement shall be as approved

by DOB and must comply with all relevant zoning district regulations;

THAT the layout and design of the accessory parking lot shall be as reviewed and approved by the Department of Buildings;

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

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

THAT the Department of Buildings must ensure compliance with all of 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, October 19, 2010.

129-07-BZ

APPLICANT – Gerald J. Caliendo, R.A., for Angel Gerasimou, owner.

SUBJECT – Application May 21, 2007 – Variance (§72-21) to allow a residential use in a manufacturing district, contrary to use regulations (§42-00). M1-4 zoning district. PREMISES AFFECTED – 1101 Irving Avenue, corner formed by the north side of Irving Avenue and Decatur Street, Block 3542, Lot 12, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Sandy Anagnostou.

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

130-07-BZ thru 134-07-BZ

APPLICANT – Gerald J. Caliendo, P.A., Angelo Gerasimou, owner.

SUBJECT – Application May 21, 2007 – Variance (§72-21) to allow a residential use in a manufacturing district, contrary to use regulations (§42-00). M1-4 zoning district. PREMISES AFFECTED – 1501, 1503, 1505, 1507 Cooper Avenue, corner formed by west side of Cooper Avenue and Irving Avenue, Block 3542, Lots 1, 95, 94, 93, 92, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Sandy Anagnostou.

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

92-08-BZ

APPLICANT – Riker Danzig, for Boquen Realty, LLC, owner.

SUBJECT – Application April 14, 2008 – Variance (§72-21) to allow for Use Group 6 below the floor level of the

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second story in an existing building, contrary to use, rear yard and floor area regulations (§42-14, 43-12 and 43-26). M1-5B zoning district.

PREMISES AFFECTED –13 Crosby Street, east side of Crosby Street between Grand and Howard Street, Block 233, Lot 4, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Juan D. Reyes.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

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

6-09-BZ

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

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

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

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Phillip Rampulla.

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 November 9, 2010, at 1:30 P.M., for decision, hearing closed.

189-09-BZ

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

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

PREMISES AFFECTED – 3067 Richmond Terrace, north

side of Richmond Terrace, west of Harbor Road, Block 1208, Lot 5, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to December 7, 2010, at 1:30 P.M., for adjourned hearing.

190-09-A

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

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

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

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to December 7, 2010, at 1:30 P.M., for adjourned hearing.

192-09-BZ

APPLICANT – Richard Lobel, for Leon Mann, owner.

SUBJECT – Application June 16, 2009 – Special Permit (§72-52) to allow for the construction of a commercial building with accessory parking. R6 and R6/C2-3 zoning districts.

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

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Elizabeth Safien.

ACTION OF THE BOARD – Laid over to December 7, 2010, at 1:30 P.M., for adjourned hearing.

39-10-BZ

APPLICANT – Eric Palatnik, P.C., for Shiranian Nizi, owner.

SUBJECT – Application March 22, 2010 – Variance (§72-21) for the legalization of a single-family home, contrary to side yards (§23-461). R-5 zoning district.

PREMISES AFFECTED – 2032 East 17th Street, East 17th Street and Avenue T, Block 7321, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins,

MINUTES

Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

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

47-10-BZ

APPLICANT – Eric Palatnik, P.C., for 2352 Story Avenue Realty Coprporation, owner; Airgas-East, Incorporated, lessee.

SUBJECT – Application April 8, 2010 – Variance (§72-21) to allow a manufacturing use in a residential district, contrary to ZR 22-00. M1-1/R3-2 zoning district.

PREMISES AFFECTED – 895 Zerega Avenue, aka 2352 Story Avenue, Block 3698, Lot 36, Borough of The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Eric Palatnik.

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

55-10-BZ

APPLICANT – Eric Palatnik, P.C., for FAS Main Street Family Limited Partnership, owner.

SUBJECT – Application April 19, 2010 – Special Permit (§73-44) to permit a reduction in required parking for an ambulatory or diagnostic treatment center. C4-2/C4-3 zoning districts.

PREMISES AFFECTED – 40-22 Main Street, northwest corner of Main Street, northwest corner of Main Street and 40th Street, Block 5036, Lot 42, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to December 14, 2010, at 1:30 P.M., for continued hearing.

66-10-BZ

APPLICANT – Eric Palatnik, P.C., for Yury, Aleksandr, Tatyana Dreysler

SUBJECT – Application May 3, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (23-141) and side yards (23-461). R3-1 zoning district.

PREMISES AFFECTED – 1618 Shore Boulevard, South side of Shore Boulevard between Oxford and Norfolk Streets. Block 8757, Lot 86, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Susan Klapper.

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 November 9, 2010, at 1:30 P.M., for decision, hearing closed.

91-10-BZ

APPLICANT – Eric Palatnik, P.C., for Lawrence Kimel, owner.

SUBJECT – Application May 17, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to open space, lot coverage and floor area (§23-141); side yard (§23-461); rear yard (§23-47) and perimeter wall height (§23-631). R3-1 zoning district.

PREMISES AFFECTED – 123 Coleridge Street, south of Hampton Street, Block 8735, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Judy Barrow.

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 November 9, 2010, at 1:30 P.M., for decision, hearing closed.

103-10-BZ

APPLICANT – Law Office of Frederick A. Becker, for Zehava Kraitenberg and Larry Kraitenberg, owners.

SUBJECT – Application June 7, 2010 – Special Permit (§73-622) for the enlargement and in-part legalization of an existing single family home contrary to floor area, open space (§23-141), side yard requirement (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1036 East 24th Street, west side of East 24th Street, between Avenue J and Avenue K, Block 7605, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to November 16, 2010, at 1:30 P.M., for continued hearing.

129-10-BZ

APPLICANT – Andrea M. Harris, for Paul Trinchese, owner; Gustavo Larrea, lessee.

SUBJECT – Application July 16, 2010 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (*Traditional Karate America*). M1-2 zoning district.

PREMISES AFFECTED – 98-18 103rd Avenue, cross street of 103rd Avenue and 99th Street, Block 9121, Lot 9, Borough

MINUTES

of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Andrea M. Morris.

For Administration: Anthony Scaduto, Fire Department.

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
November 9, 2010, at 1:30 P.M., for decision, hearing
closed.

November 9, 2010, at 1:30 P.M., for decision, hearing
closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

131-10-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for
841-853 Broadway Associates, owner; Jivamukti Yoga
Center, lessee.

SUBJECT – Application July 21, 2010 – Special Permit
(§73-36) to legalize the operation of a physical culture
establishment (*Jivamukti Yoga Studio*). C6-4 (US)/C6-1
zoning districts.

PREMISES AFFECTED – 841 Broadway, northwest corner
of Broadway and East 13th Street, Block 565, Lot 15,
Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Fredrick A. Becker.

For Administration: Anthony Scaduto, Fire Department.

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
November 9, 2010, at 1:30 P.M., for decision, hearing
closed.

152-10-BZ

APPLICANT – Peter Poruczynski, RA, for Jeannie
Kontopirakis, owner.

SUBJECT – Application August 17, 2010 – Special Permit
(§73-622) for the enlargement of an existing single family
home, contrary to floor area, open space and lot coverage
§23-141. R2 zoning district.

PREMISES AFFECTED – 158 85th Street, 85th Street
frontage. Block 6032, Lot 31. Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Peter Zaharatos.

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