
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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June 22, 2011

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

Commissioners

Jeffrey Mulligan, *Executive Director*

Becca Kelly, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Afternoon Calendar410

Affecting Calendar Numbers:

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DOCKET

New Case Filed Up to June 14, 2011

82-11-BZ

2020 Homecrest Avenue, West side of Homecrest Avenue, approximately 165 feet south of Avenue T., Block 7316, Lot(s) 13, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) for the enlargement of an existing single family home, contrary to floor area (23-141); side yard (23-461); rear yard (23-47) regulations. R5 zoning district. R5 district.

83-11-A

159 West 78th Street, North side of West 78th Street between Columbus and Amsterdam Avenues., Block 1150, Lot(s) 8, Borough of **Manhattan, Community Board: 7**. Appeal pursuant to section 310 of the Multiple Dwelling Law requesting variance to allow for enlargement of the subject building R8B district.

84-11-A

333 East 9th Street, North side of East 9th Street between 1st and 2nd Avenues., Block 451, Lot(s) 45, Borough of **Manhattan, Community Board: 3**. Appeal pursuant to Section 310 of the Multiple Dwelling Law requesting variance to allow for enlargement of the subject building. R8B district.

85-11-A

335 East 9th Street, North side of East 9th Street between 1st and 2nd Avenues., Block 451, Lot(s) 44, Borough of **Manhattan, Community Board: 3**. Appeal filed pursuant to Section 310 of the Multiple Dwelling Law to vary certain provisions of the MDL that apply to a proposed one story enlargement to the 5 story building . R8b zoning district. R8B district.

86-11-A

663-673 2nd Avenue, Northwest corner of East 36th Street and 2nd Avenue., Block 917, Lot(s) 21, 24-31, Borough of **Manhattan, Community Board: 6**. An appeal of the Department of Buildings revocation of non-conforming sign approval.C1-9 zoning district. C1-9 district.

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

CALENDAR

JULY 12, 2011, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 12, 2011, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

281-39-BZ

APPLICANT – Eric Palatnik, P.C., for 1599 Lexington Avenue Corporation, owner.

SUBJECT – Application May 3, 2011 – Extension of Term (§11-411) of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B) with accessory uses which expired on May 18, 2009; Waiver of the Rules of Practice and Procedure. C1/R7-2 zoning district.

PREMISES AFFECTED – 1605 Lexington Avenue, southeast corner of 102nd Street, Block 1629, Lot 150, Borough of Manhattan.

COMMUNITY BOARD #11M

926-86-BZ

APPLICANT – Sheldon Lobel, P.C., for Manes Bayside Realty LLC, owner.

SUBJECT – Application November 1, 2010 – Extension of Term of a previously approved application permitting the operation of an automotive dealership with accessory repairs (UG 16B) which expired on November 4, 2010; Extension of time to obtain a Certificate of Occupancy which expired on January 6, 2006; Waive of the Rules of Practice and Procedure. C2-2/R6-B/R3X zoning district.

PREMISES AFFECTED – 217-07 Northern Boulevard, block front on the northerly side of Northern Boulevard between 217th Street and 218th Street, Block 6320, Lot 18, Borough of Queens.

COMMUNITY BOARD #11Q

188-96-BZ

APPLICANT – Mitchell S. Ross, Esq., for 444 Soundview Services Stations, Incorporated c/o William McCombs, owner; Scott Greco, lessee.

SUBJECT – Application June 22, 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) with accessory convenience store which expired January 6, 2008; Waiver of the rules. R5 zoning district.

PREMISES AFFECTED – 444 Soundview Avenue, north side of Soundview Avenue and west of Underhill Avenue, Block 3498, Lot 51, Borough of Bronx.

COMMUNITY BOARD #9BX

APPEALS CALENDAR

182-06-A thru 211-06-A

APPLICANT – Akerman Senterfitt, LLP, for Boymelgreen Beachfront Community, LLC, owners.

SUBJECT – Application April 18, 2011 – Extension of time to complete construction and obtain a Certificate of Occupancy for a previously granted Common Law Vesting which expired March 19, 2011.

PREMISES AFFECTED – 126, 128, 130, 134, 136, 140, 146, 148, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 161, and 163 Beach 5th Street. 150, 152, 154, 156, 158, 160, and 162 Beach 6th Street and 511 SeaGirt Avenue Block 15609, Lots 1, 3, 6, 8, 10, 12, 14, 16, 18, 58, 63, 64, 65, 66, 67, and 68 and Block 15608, Lots 1, 40, 42, 45, 51, 52, 53, 57, 58, 61, 63, 65, 67, and 69. Borough the Queens

COMMUNITY BOARD #14Q

52-11-A

APPLICANT – New York City Economic Development Corporation, for Department of Small Business Services, owner.

SUBJECT – Application March 30, 2011 – Appeal for a variance to Appendix G, Section G304.1.2 of the NYC Building Code to allow for a portion of a structure to be located below a food zone.

PREMISES AFFECTED – South Street & John Street, East South Street, at John Street, under the FDR Drive. Block 73, Lots 2 & 8. Borough of Manhattan.

COMMUNITY BOARD #1M

JULY 12, 2011, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 12, 2011, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

28-11-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 291 Broadway Realty Associates LLC, owner; Garuda Thai Inc. dba The Wat, lessee.

SUBJECT – Application March 24, 2011 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (*The Wat*). C6-4 zoning district.

PREMISES AFFECTED – 291 Broadway, northwest corner of Broadway and Reade Street, Block 150, Lot 38, Borough of Manhattan.

COMMUNITY BOARD #1M

CALENDAR

31-11-BZ

APPLICANT – Goldman Harris LLC, for Bronx Sheperds Restoration Corporation, owner.

SUBJECT – Application March 28, 2011 – Variance (§72-21) to allow a mixed use community facility and commercial building contrary to use (ZR 32-12), floor area (ZR 33-123), rear yard (ZR 33-292), and height and setback (ZR 33-432) regulations. C8-3 zoning district.

PREMISES AFFECTED – 1665 Jerome Avenue, west side of Jerome Avenue between Featherbed Lane and Clifford Lane, Block 2861, Lot 35, Borough of Bronx.

COMMUNITY BOARD #5BX

38-11-BZ

APPLICANT – Eric Palatnik, P.C., for Arveh Schimmer, owner.

SUBJECT – Application April 5, 2011– Special Permit (§73-622) for the enlargement of an existing two family home to be converted into a single family home contrary to floor area and open space §23-141(a); side yard §23-461(a) and less than the required rear yard §23-47. R-2 zoning district.

PREMISES AFFECTED – 1368 East 27th Street, between Avenue M and N, Block 7662, Lot 80, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JUNE 14, 2011
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

316-06-BZ

APPLICANT – Jesse Masyr, Esq., Watchel & Masyr, LLP,
for New York Botanical Garden, owner.

SUBJECT – Application April 29, 2011 – Extension of
Time to Complete Construction of a previously granted
Variance (§72-21) for the construction of a six story
accessory garage (UG4) with 825 parking spaces on six
stories, one cellar and the roof level which expired on April
10, 2011. R7D/C2-1 zoning district.

PREMISES AFFECTED – 2960 Webster Avenue, between
Bedford Park Boulevard and Botanical Square South, Block
3274, Lot 1 & 4, Borough of Bronx.

COMMUNITY BOARD #7BX

APPEARANCES –

For Applicant: Ethan Goodman.

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and
an extension of time to complete construction of a
previously granted variance to permit, within a C8-2 zoning
district, the construction of an accessory parking facility to
an existing community facility, which expired on April 10,
2011; and

WHEREAS, a public hearing was held on this
application on May 24, 2011, after due notice by publication
in *The City Record*, and then to decision on June 14, 2011;
and

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

WHEREAS, the subject site is located on the south side
of Webster Avenue between Bedford Park Boulevard and
Botanical Square South; and

WHEREAS, the applicant notes that at the time of the
original approval the site was located within a C8-2 zoning
district, but that the site was rezoned on March 23, 2011 to a
C2-4 (R7D) zoning district; and

WHEREAS, the Board has exercised jurisdiction over
the site since April 10, 2007 when, under the subject calendar
number, the Board granted a variance to permit the proposed
construction of a six-story with cellar and rooftop parking

garage with 825 parking spaces, accessory to the New York
Botanical Garden; and

WHEREAS, substantial construction was to be
completed by April 10, 2011, in accordance with ZR § 72-23;
and

WHEREAS, the applicant states that, at the time the
application was filed, construction of approximately 25 percent
of the proposed parking facility is complete, including the
completion of all excavation, foundations, and the cellar level,
and the commencement of concrete construction on portions of
four stories of the building; and

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

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

Therefore it is Resolved that the Board of Standards and
Appeals *reopens* and *amends* the resolution, dated April 10,
2007, so that as amended this portion of the resolution shall
read: “to grant an extension of the time to complete
construction for a term of four years, to expire on April 10,
2015; on condition:

THAT substantial construction shall be completed by
April 10, 2015;

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. 201088492)

Adopted by the Board of Standards and Appeals, June
14, 2011.

677-53-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for James
Marchetti, owner.

SUBJECT – Application April 22, 2010 – Extension of
Term (§11-411) of a Variance for the operation of a UG16
Auto Body Repair Shop (*Carriage House*) with incidental
painting and spraying which expired on March 24, 2007;
Extension of Time to Obtain a Certificate of Occupancy
which expired on January 13, 1999; Amendment (§11-412)
to enlarge the building; Waiver of the Rules. R4/C2-2
zoning district.

PREMISES AFFECTED – 61-26/30 Fresh Meadow Lane,
west side of Fresh Meadow Lane, 289’ northerly of the
intersection with 65th Avenue, Block 6901, Lot 48, Borough
of Queens.

COMMUNITY BOARD #8Q

MINUTES

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to July 12, 2011, at 10 A.M., for continued hearing.

662-56-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Flatbush Holdings LLC, owner.

SUBJECT – Application April 6, 2011 – Extension of Term (§11-411) of a previously approved variance which permitted a public parking lot (UG 8), which expired on January 23, 2011; Waiver of the Rules. C1-2/R5 zoning district.

PREMISES AFFECTED – 3875 Flatbush Avenue, Northerly side of Flatbush Avenue, 100' east of the intersection of Flatlands Avenue. Block 7821, Lots 21, 23. Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to July 12, 2011, at 10 A.M., for continued hearing.

1250-65-BZ

APPLICANT – Peter Hirshman, for 87th Street Owners Corporation, owner; Park 87th Corporation, lessee.

SUBJECT – Application April 21, 2011 – Extension of Term for transient parking in an existing multiple dwelling which expired on March 21, 2011. R8B zoning district.

PREMISES AFFECTED – 55 East 87th Street, 107.67' west of Park Avenue, Block 1499, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Peter Hirshman

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 12, 2011, at 10 A.M., for decision, hearing closed.

118-95-BZ

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

SUBJECT – Application April 11, 2011 – Extension of Term of a previously granted Special Permit (§73-243) for the continued operation of a drive-thru facility at an eating and drinking establishment (*White Castle*) which expires on July 25, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on May 22, 2008; Waiver of the rules. C1-2/R6 zoning district.

PREMISES AFFECTED – 89-03 57th Avenue, southeast corner of Queens Boulevard and 57th Avenue, Block 1845,

Lot 45, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD – Laid over to July 26, 2011, at 10 A.M., for continued hearing.

111-01-BZ

APPLICANT – Eric Palatnik, P.C. for Barge Realty, Incorporated, owner; Wendy's International, lessee.

SUBJECT – Application February 23, 2011 – Extension of term of a previously granted Special Permit (§73-243) for an accessory drive-thru facility at an eating and drinking establishment (*Wendy's*) which expired February 1, 2011; Amendment for minor modification to previous conditions on the site. C1-2 (R5) zoning district.

PREMISES AFFECTED – 9001 Ditmas Avenue, Corner of Ditmas Avenue and Remsen Avenue. Block 8108, Lot 6. Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 12, 2011, at 10 A.M., for decision, hearing closed.

156-03-BZ

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

SUBJECT – Application November 30, 2009 – Amendment to a variance (§72-21) for a proposed 17-story mixed-use development. The amendment seeks to increase the number of dwelling units from 200 to 357, accessory parking from 229 spaces to 360 spaces, and the amount of retail space. C2-2/R6 zoning district.

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

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Howard Goldman, Jack Freeman, Patrick Thompson.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 12, 2011, at 10 A.M., for decision, hearing closed.

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APPEALS CALENDAR

17-05-A

APPLICANT – Sheldon Lobel, P.C., for GRA V LLC, owner.

SUBJECT – Application February 15, 2011 – Application to reopen pursuant to a court remand for a determination of whether the property owner has established a common law vested right to continue construction under the prior R6 zoning district. R4A zoning district.

PREMISES AFFECTED – 3329 Giles Place, west side of Giles Place between Canon Place and Fort Independence Street, Block 3258, Lots 5 & 7, Borough of Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Jordan Most.

For Opposition: Teresa Grant Steeth, Karen Argenti, Judy Baier, Margaret Groarke, B. Aocon, Part Westphid.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to August 16, 2011, at 10 A.M., for decision, hearing closed.

96-10-A & 97-10-A

APPLICANT – Rothkrug Rothkrug & Spector, for Hub Development Corporation, owner.

SUBJECT – Application June 1, 2010 – Proposed construction of a single family home located within the bed of a mapped street (Jay Street), contrary to General City Law Section 35. R3-1 zoning district.

PREMISES AFFECTED – 673 & 675 Hunter Avenue, north side of Hunter Avenue, bed of Jay Street, Block 3864, Lot 98 & 99, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 12, 2011, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING TUESDAY AFTERNOON, JUNE 14, 2011 1:30 P.M.

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

ZONING CALENDAR

45-10-BZ

APPLICANT – Sheldon Lobel, PC, for Leemilt's Petroleum, Incorporated, owner.

SUBJECT – Application April 5, 2010 – Special Permit (§11-411 and §11-412) for the reinstatement of a Variance for the continued operation of a gasoline service station (*Getty*) which expired on June 23, 1986; Amendment to increase the size of the auto laundry; Extension of Time to obtain a Certificate of Occupancy. C1-4/R7-1 zoning district.

PREMISES AFFECTED – 1413-1429 Edward L. Grant Highway, southwest corner of Plimpton Avenue and Edward L. Grant Highway, Block 2521, Lot 15, Borough of Bronx.

COMMUNITY BOARD #4BX

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 Bronx Borough Commissioner, dated March 4, 2010, acting on Department of Buildings Application No. 220045948, reads in pertinent part:

“The continued operation of the property with a gasoline service station is contrary to ZR § 22-10 and BSA Cal. No. 622-55-BZ and must be referred to the BSA for approval;” and

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reinstatement of a prior Board approval to permit the operation of a gasoline service station with accessory uses (Use Group 16) pursuant to ZR § 11-411, an amendment to permit modifications to the previously-approved plans pursuant to ZR § 11-412, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on December 14, 2010, after due notice by publication in the *City Record*, with continued hearings on March 15, 2011 and May 24, 2011, and then to decision on June 14, 2011; and

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

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Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 4, Bronx, recommends approval of this application; and

WHEREAS, the premises is located on the southeast corner of Plimpton Avenue and Edward L. Grant Highway, within a C1-4 (R7-1) zoning district; and

WHEREAS, the applicant notes that the site was formerly comprised of tax lots 15, 16, 17, 20 and 23, however, these lots have all been merged into current Lot 15; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 19, 1955 when, under BSA Cal. No. 14-55-BZ, the Board granted a variance to permit the construction of a gasoline service station on former tax lot 17, for a term of 15 years; and

WHEREAS, on June 18, 1957, under BSA Cal. No. 622-55-BZ, the Board granted a new variance to permit the construction of a gasoline service station, lubritorium, non-automatic car wash, office and salesroom, minor repairs, and parking and storage of more than five motor vehicles on all lots now comprising the subject site (former tax lots 15, 16, 17, 20 and 23), for a term of 15 years; and

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

WHEREAS, on June 23, 1981, under BSA Cal. Nos. 622-55-BZ and 77-81-A, the Board amended the resolution to permit the reduction in the size of the existing building, thereby eliminating the car wash, lubritorium, and minor auto repairs from the site, and permitting the relocation of the gas pump island and the construction of a new steel canopy over the gasoline pumps, and extended the term of the variance for a term of five years, which expired on June 23, 1986; and

WHEREAS, the applicant states that the work permitted pursuant to the June 23, 1981 grant was never commenced and the site currently operates in substantial compliance with the Board's grant prior to the June 23, 1981 amendments; and

WHEREAS, the term of the variance has not been extended since its expiration on June 23, 1986; and

WHEREAS, the applicant represents, however, that the use of the site as a gasoline service station with accessory uses has been continuous since the initial grant; and

WHEREAS, the applicant now proposes to reinstate the grant as it existed prior to the amendments that were approved in the June 23, 1981 grant, which were never undertaken; and

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

WHEREAS, pursuant to ZR § 11-411, the Board may extend the term of an expired variance for a term of not more than ten years; and

WHEREAS, the applicant also seeks to amend the grant to approve site conditions that do not conform with previously approved plans, to reflect: (1) the removal and relocation of 14 oil and underground storage tanks for motor fuel; (2) the enlargement of the car wash portion of the service station building by 425 sq. ft.; (3) the continued operation of the car wash and automotive repair uses at the site, which have been continuous despite the June 23, 1981 grant which permitted the reconfiguration of the site and the discontinuance of these uses;

(4) the discontinuance of the used car sales operation on the site; (5) the installation of interior partitions in the building's accessory sales and office area; and (6) the installation of a landscaping and parking area on the southern portion of the lot; and

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

WHEREAS, during the course of the hearing process, the Board questioned whether the queuing space on the site was sufficient for the car wash operation, and directed the applicant to comply with C1 district signage regulations and to install landscaping on the site in accordance with the previously approved plans; and

WHEREAS, in response, the applicant submitted revised drawings reflecting the queuing of vehicles at the car wash entrance, and states that there are no complaints on record from the community board or any of the relevant City agencies regarding the queuing of vehicles at the site; and

WHEREAS, the applicant also submitted photographs reflecting the removal of all non-complying signs from the site, a signage plan reflecting that the site complies with C1 district signage regulations, and revised plans reflecting the installation of a landscaping area in the southeast corner of the site with a landscaping strip extending along the retaining wall at the southern lot line; and

WHEREAS, the Board has determined that evidence in the record supports the findings required to be made under ZR §§ 11-411 and 11-412.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, issues a Type II determination under 6 NYCRR 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 each and every one of the required findings under ZR §§ 11-411 and 11-412 for a reinstatement of a prior Board approval of a gasoline service station with accessory uses (UG 16), an amendment to permit the noted modifications to the site, and an extension of time to obtain a certificate of occupancy to June 14, 2012; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received March 3, 2011"-(3) sheets and "May 11, 2011"-(2) sheets; and *on further condition*:

THAT this permit shall be for a term of ten years, to expire on June 14, 2021;

THAT all signage on the site shall comply with C1 district regulations;

THAT the lot shall be kept free of graffiti, dirt and debris;

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

THAT a new certificate of occupancy be obtained by June 14, 2012;

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

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

THAT the approved plans shall be considered approved

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only for the portions related to the specific relief granted; and

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

Adopted by the Board of Standards and Appeals, June 14, 2011.

9-11-BZ

CEQR #11-BSA-055X

APPLICANT – Sheldon Lobel, P.C., for Riverdale Equities, LTD, owner; White Plains Road Fitness Group, LLC, lessee.

SUBJECT – Application January 31, 2011 – Special Permit (§73-36) to permit the operation of the proposed physical culture establishment (*Planet Fitness*). C4-4 zoning district.

PREMISES AFFECTED – 2129A-39A White Plains Road, a/k/a 2129-39 White Plains Road, a/k/a 626-636 Lydig Avenue, southeast corner of the intersection of White Plains Road and Lydig Avenue, Block 4286, Lot 35, Borough of Bronx.

COMMUNITY BOARD #11BX

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 Bronx Borough Commissioner, dated January 17, 2011, acting on Department of Buildings Application No. 210059951, reads in pertinent part:

“Proposed physical culture establishment is not permitted in a C4-4 zoning district and requires special permit by the Board of Standards and Appeals as per Zoning Resolution section 73-36;”
and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C4-4 zoning district, the operation of a physical culture establishment (PCE) at portions of the cellar and first floor, and the entire second floor of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on April 5, 2011, after due notice by publication in *The City Record*, with continued hearings on May 10, 2011 and May 24, 2011, and then to decision on June 14, 2011; and

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

WHEREAS, Community Board 11, Bronx, recommends disapproval of this application, citing concerns with the proposed 24-hour operation of the PCE; and

WHEREAS, certain members of the community provided testimony in opposition to this application (hereinafter, the “Opposition”), citing concerns with the proposed 24-hour operation of the PCE, the impact of the PCE on neighboring residential uses, parking, and security; and

WHEREAS, the subject site is located on the southeast corner of White Plains Road and Lydig Avenue, within a C4-4 zoning district; and

WHEREAS, the site has 118 feet of frontage on White Plains Road, 102 feet of frontage on Lydig Avenue, and a total lot area of 10,694 sq. ft.; and

WHEREAS, the site is occupied by a two-story commercial building which is currently under construction; and

WHEREAS, the PCE will occupy a total of 16,507 sq. ft. of floor space at portions of the cellar and first floor, and the entire second floor; and

WHEREAS, the PCE will be operated as Planet Fitness; and

WHEREAS, the proposed hours of operation are: Monday through Thursday, 24 hours per day; Friday, from 12:00 a.m. to 10:00 p.m.; and Saturday and Sunday, from 7:00 a.m. to 7:00 p.m.; and

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

WHEREAS, in response to the concerns raised by the community board and neighborhood residents, the applicant submitted a revised drawing reflecting that tint glazing will be installed on all of the PCE’s second floor windows on the Lydig Avenue frontage, to prevent any adverse impact from the PCE’s hours of operations on the residential properties located to the west of the subject site on Lydig Avenue; and

WHEREAS, at the direction of the Board, the applicant also agreed to turn off the illuminated sign located on Lydig Avenue between 11:00 p.m. to 7:00 a.m.; and

WHEREAS, as to the security concerns raised by the Opposition, the applicant states that exterior security cameras will be installed on the building, and the applicant submitted a letter from Planet Fitness stating that its staff is trained with respect to security issues and will conduct periodic checks of the building’s perimeter; and

WHEREAS, the applicant also submitted a traffic and parking analysis which reflects that the peak hourly automobile trips generated by the PCE will not adversely affect traffic conditions in the area, and that there is ample available parking in the vicinity of the site during the PCE’s peak hours, both on the street and in a nearby municipal parking lot; 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

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operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 11BSA055X, dated January 31, 2011; 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 within a C4-4 zoning district, the operation of a physical culture establishment at portions of the cellar and first floor, and the entire second floor of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 10, 2011"- (1) sheet and "Received January 31, 2011"- (4) sheets; and *on further condition*:

THAT the term of this grant shall expire on June 14, 2021;

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 tint glazing shall be installed on the PCE's windows as indicated on the BSA-approved plans;

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

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, June 14, 2011.

25-11-BZ
CEQR #11-BSA-055X

APPLICANT – Sheldon Lobel, P.C., for Health Science Center at Brooklyn Foundation, Incorporated, owner; Downstate Technology Center, Incorporated, lessee.

SUBJECT – Application March 9, 2011 – Variance (§72-21) to permit the enlargement of an existing medical research facility (*Downstate Advanced Biotechnology Incubator*), contrary to floor area (§43-10), height and setback (§43-20), required parking (§43-21), parking space dimensions (§44-42) and off street loading bay (§44-52) regulations. M1-1 zoning district.

PREMISES AFFECTED – 760 Parkside Avenue, South side of Parkside Avenue, mid-block between New York Avenue and Nostrand Avenue. Block 4828, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Richard Lobel.

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 March 4, 2011, acting on Department of Buildings Application No. 320271059, reads in pertinent part:

1. The proposed enlargement to a biotechnology laboratory building for Downstate Medical Center, Use Group 17B, in an M1-1 zoning district exceeds the allowable floor area ratio of 1.00 contrary to section 43-12 of the Zoning Resolution.
2. The proposed three-story, 44'-6" front portion of

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the enlargement proposed to be located within the 20' initial setback distance on a narrow street exceeds the 30' or two stories allowed by section 43-43 of the Zoning Resolution.

3. The three-story, 44'-6" front portion of the proposed enlargement penetrates the sky exposure plane by 4'-6" contrary to section 43-43 of the Zoning Resolution.
4. Fewer accessory off-street parking spaces than one per 1,000 SF of floor area are proposed to be provided for the enlarged biotechnology laboratory building, Use Group 17B, in an M1-1 zoning district contrary to section 44-21 of the Zoning Resolution.
5. The dimensions of ten of the proposed accessory off-street parking stalls are less than the 8'-6" x 18' required by section 44-42 of the Zoning Resolution.
6. The loading berth required for hospitals and related facilities is not provided contrary to section 44-52 of the Zoning Resolution; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an M1-1 zoning district, the proposed enlargement of a three-story building for the Downstate Advanced Biotechnology Incubator (the "Incubator"), occupied by medical research laboratories (Use Group 17) and offices, which does not comply with zoning requirements concerning floor area ratio ("FAR"), initial setback distance, sky exposure plane, the number and dimensions of parking spaces, and off-street loading berths, contrary to ZR §§ 43-12, 43-43, 44-21, 44-42 and 44-52; and

WHEREAS, a public hearing was held on this application on May 10, 2011, after due notice by publication in the *City Record*, and then to decision on June 14, 2011; and

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

WHEREAS, the applicant submitted general letters of support for the Incubator's program from numerous organizations and elected officials; and

WHEREAS, this application is brought on behalf of Downstate Technology Center, Inc. (the "Technology Center"), a not-for-profit medical research corporation affiliated with SUNY Downstate Medical Center ("SUNY Downstate"), a not-for-profit medical center and educational institution; and

WHEREAS, the applicant notes that SUNY Downstate is one of the 64 campuses of the State University of New York which are located throughout the state; and

WHEREAS, the applicant states that the proposed enlargement of the Incubator is part of SUNY Downstate's mission to help foster the development of the biotechnology industry in New York City, and that the Technology Center will oversee the development and management of the Incubator; and

WHEREAS, the subject site is located on the south side of Parkside Avenue, between New York Avenue and Nostrand Avenue, within an M1-1 zoning district; and

WHEREAS, the site has approximately 268 feet of frontage on Parkside Avenue, a depth of 126 feet, and a total lot area of 33,725 sq. ft., and

WHEREAS, the site is currently occupied by a three-story medical research facility building with research laboratories (Use Group 17) on the second and third floors, and medical offices, mechanical space and electrical space on the first floor (Use Group 4), and with a floor area of 23,760 sq. ft.; and

WHEREAS, the applicant proposes to enlarge the subject building by extending each floor with an approximately 114-ft. by 77-ft. enlargement, thereby adding approximately 8,750 sq. ft. per floor; and

WHEREAS, the applicant states that the proposed enlargement will enable the Incubator to add 19 new laboratories and additional offices, conference rooms, and multi-purpose rooms to the existing building; and

WHEREAS, the applicant proposes the following non-complying conditions: a floor area of 50,074 sq. ft. (the maximum permitted floor area is 33,725 sq. ft.); an FAR of 1.48 (the maximum permitted FAR is 1.0); encroachment into the sky exposure plane and the required 20'-0" initial setback; 29 parking spaces (a total of 51 parking spaces are required); ten parking spaces with dimensions less than the required dimensions of 8'-6" by 18'-0"; and no off-street loading berths (a minimum of one off-street loading berth is required); and

WHEREAS, the applicant states that the following are the programmatic needs of the Incubator: (1) to encourage growth in the field of medical research; (2) to be located close to the SUNY Downstate campus; (3) to maintain a program with a sufficient size to attract and accommodate additional doctors, scholars, and professors; and (4) to provide community development and educational programming; and

WHEREAS, in order to meet its programmatic needs, the applicant seeks a variance pursuant to ZR § 72-21; and

WHEREAS, as to location, the applicant states that the Incubator's location close to the SUNY Downstate campus provides important benefits to the Technology Center's program, as research companies leasing space at the Incubator have access to SUNY Downstate's significant medical research resources; and

WHEREAS, the applicant further states that the Technology Center has a programmatic need to keep the Incubator at its current location by expanding the existing facility, and that relocating to a new site would be prohibitively expensive because the existing building's facilities include: (1) specialized acid neutralization tanks; (2) an acid collection system; (3) a sophisticated HVAC system; (4) computerized control of air pressure, negative pressure and fume hood exhaust; and (5) an emergency generator; and

WHEREAS, the applicant notes that the Incubator represents the only "wet laboratory" incubator space in Brooklyn, where chemicals, drugs, and biological matter are tested and analyzed, requiring dedicated utilities including specialized ventilation and piped utilities; and

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WHEREAS, as to the size of the program, the applicant states that it is necessary for the Incubator to maintain a sufficient size to attract and accommodate additional doctors, scholars and professors, and that having additional research companies within the existing facility will allow for increased interaction among companies, further allowing these companies to advance their own research through both knowledge-sharing and use of other core facilities; and

WHEREAS, as to the need for community development and educational programming, the applicant states that the Technology Center is involved in community health and outreach programs, teaching programs (in conjunction with SUNY Downstate), and a workforce development program with Hunter College that are housed at the Incubator; and

WHEREAS, the applicant further states that the expansion of the existing Incubator allows for the fulfillment of program goals relating to this community development and educational programming; and

WHEREAS, the applicant represents that the requested waivers of FAR, setback and sky exposure plane requirements will permit the number and layout of laboratories and other accessory offices and multipurpose rooms that are required to allow the Incubator to operate feasibly and efficiently; and

WHEREAS, specifically, the applicant states that if the proposed enlargement were to comply with the maximum FAR of 1.0, approximately 16,345 sq. ft. of the enlargement would have to be eliminated, which would result in a reduction of the number of additional laboratories from 19 to four; and

WHEREAS, the applicant further states that compliance with the required setback and sky exposure plane requirements would eliminate approximately ten feet from the proposed third floor, which would significantly decrease the size of four laboratories and eliminate two offices proposed on the third floor; and

WHEREAS, the applicant states that the size of the laboratories is an important part of the Incubator's programmatic needs, which require that each laboratory module be as small as possible but flexible enough to allow modules to be combined into a larger laboratory space, in order to accommodate and attract a range of biotechnology companies; and

WHEREAS, the applicant submitted a letter from its architect stating that the standard laboratory size for a biotechnology laboratory ranges from 500 to 800 sq. ft. and that the incubator facilities must be flexible in nature to allow for a variety of functions and to allow smaller lab spaces to grow into larger spaces; and

WHEREAS, the applicant states that the requested parking waivers are necessary because providing the additional 22 required accessory spaces would restrict the building footprint and reduce the necessary program space due to the limited lot area available, and the required minimum parking stall depth of 18 feet cannot be accommodated for all 29 of the parking spaces that are

proposed because the placement of bollards at the rear of the building to protect pedestrians entering and exiting, in combination with the ADA-compliant access provided on the east side of the existing building, reduce the aisle width in these areas; and

WHEREAS, the applicant further states that the requested loading berth waiver is necessary to allocate the floor area to laboratories and other necessary program space, and represents that the Incubator's loading requirements are relatively minimal and can be accommodated without the required loading berth; and

WHEREAS, the applicant represents that the loading berth waiver will also not affect the disposal of hazardous waste materials, as the Incubator is occupied by small biotechnology companies that generate minimal amounts of hazardous waste, which is stored in regulated containers in the laboratory modules until they are collected by a vendor certified to properly dispose of them at a coordinated pickup time, and such collection and disposal does not require the use of a loading berth; and

WHEREAS, the applicant concludes that the requested waivers are required to meet the programmatic needs of the Technology Center; and

WHEREAS, in addition to the programmatic needs of the Technology Center, the applicant represents that the subsurface conditions of the site also create an unnecessary hardship in developing the site in compliance with applicable regulations; and

WHEREAS, specifically, the applicant conducted a Phase I Environmental Site Assessment which detected various volatile organic compounds and metals within 15 feet below the ground surface; and

WHEREAS, the applicant represents that, due to this subsurface contamination, the costs associated with excavation and soil remediation prohibit the applicant from locating a portion of the enlargement below grade; and

WHEREAS, the applicant further represents that, in the absence of such subsurface soil condition, some of the floor space proposed to be located above grade could be located below grade where it would not be counted as floor area, thereby eliminating or reducing the degree of some of the requested waivers; and

WHEREAS, in analyzing the applicant's waiver requests, the Board acknowledges that the Technology Center, through its affiliation with an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, at hearing, the Board requested that the applicant clarify the relationship between the Technology

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Center, the Incubator, and SUNY Downstate; and

WHEREAS, in response, the applicant states that SUNY Downstate, acting through the Health Science Center at Brooklyn Foundation, Inc. (the "Foundation"), one of SUNY Downstate's local campus foundations, created the Technology Center in 2000 to develop, maintain, and manage a multiphase biotechnology initiative instituted by SUNY Downstate to encourage growth in the field of medical research; and

WHEREAS, the applicant further states that the Foundation is the owner of the site, and that the Technology Center is a long-term lessee which oversees the development and management of the Incubator and subleases laboratory space within the Incubator to biotechnology companies; and

WHEREAS, the applicant notes that the activities at the biotechnology companies provide the necessary research and scholarship opportunities to promote SUNY Downstate's educational mission and the programmatic needs of the Technology Center; and

WHEREAS, the applicant states that the Research Foundation of SUNY (the "Research Foundation"), which manages the grants for all 64 SUNY campuses, is a corporate member of the Technology Center, and that SUNY Downstate and the Research Foundation handle certain administrative functions on behalf of the Technology Center, including personnel, benefits, and payroll; and

WHEREAS, the applicant represents that the Technology Center facilitates the interaction of SUNY Downstate students and faculty with biotechnology companies using innovative methods of study at the Incubator, and that MD and PhD students at SUNY Downstate regularly work with biotechnology companies at the Incubator as part of SUNY Downstate's teaching program, and medical doctors working at the Incubator are part of SUNY Downstate's faculty; and

WHEREAS, the applicant further represents that the constant interaction between the Incubator and the rest of SUNY Downstate's facilities is critical to the advancement of SUNY Downstate as a state-of-the-art educational and medical facility; and

WHEREAS, the applicant states that the Incubator's medical offices are used for clinical trials associated with research performed at the Incubator; and

WHEREAS, the applicant also submitted a letter from SUNY Downstate which states that the Incubator provides space to house early-stage biotechnology companies, which offer training opportunities for PhD, MD, MD/PhD and BA/BS and MS students, and the Incubator provides clinical space to train medical students, residents, and fellows in the care of patients and to learn how to perform clinical trials; and

WHEREAS, the letter submitted by the applicant states that 21 members of SUNY Downstate's faculty work at the Incubator, and each year 140 SUNY Downstate students and 45 residents and fellows rotate at the Incubator, and SUNY Downstate administers a bioscience/biotechnology technician training program at the Incubator which has trained over 260 students; and

WHEREAS, the letter submitted by the applicant further states that a majority of the companies at the incubator have at least one staff member from SUNY

Downstate, and 50 percent of the Technology Center's directors are on the SUNY Downstate staff; and

WHEREAS, accordingly, the Board finds that the Technology Center, as an integrated part of SUNY Downstate and a component of its educational mission, merits the deference afforded to educational institutions; and

WHEREAS, the Board accepts that the requested waivers will facilitate the construction of a building that will meet the specific needs of the Technology Center; and

WHEREAS, based upon the above, the Board finds that the aforementioned physical conditions, when considered in conjunction with the Technology Center's programmatic needs, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Technology Center is a not-for-profit organization and the proposed development will be in furtherance of its mission; and

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

WHEREAS, the applicant states that the proposed use is permitted as-of-right within the subject M1-1 zoning district; and

WHEREAS, the applicant submitted an FAR study of 75 lots on blocks within a 400-ft. radius of the site, which reflects that there are buildings with a similar bulk to that proposed on the nearby SUNY Downstate campus, and buildings with higher FARs are present within the surrounding residential districts, including the R6 and R7A districts adjacent to the subject M1-1 district; and

WHEREAS, the FAR study submitted by the applicant indicates that the average FAR in the surrounding area is 1.17, and the buildings fronting on Nostrand Avenue on the subject block all have FARs above the proposed FAR of 1.48; and

WHEREAS, as to parking, the applicant submitted an area map which reflects that parking facilities are located elsewhere on the SUNY Downstate campus in close proximity to the Incubator, and public parking facilities are located one block south of the Incubator; thus, there is sufficient parking in close proximity to the Incubator to accommodate any overflow parking from the site; and

WHEREAS, the applicant states that the Incubator is also easily accessed by public transportation, with the Winthrop Street subway station for the 2 and 5 subway lines located on Nostrand Avenue between Winthrop Street and Parkside Avenue; and

WHEREAS, based upon the above, the Board finds that this action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the programmatic needs of the Technology Center and

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the constraints of the subject site; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to accommodate the Technology Center's current and projected programmatic needs; and

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

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") 11BSA068K, dated May 26, 2011; and

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

WHEREAS, the subject SUNY Downstate Biotechnology Center site at 760 Parkside Avenue is located within a larger area between Winthrop Street and Clarkson Avenue that was formerly used as a manufactured gasification plant (Flatbush Gas Company); and

WHEREAS, the subject site and six other parcels in the area are subject to an Order of Consent and Administrative Settlement ("OCAS") between Brooklyn Union Gas (now National Grid) and the New York State Department of Environmental Conservation ("DEC"); and

WHEREAS, OCAS requires that the site be investigated, characterized, and, if necessary, remediated, and that all site work must be done pursuant to a DEC-approved work plan and consistent with the National Oil and Hazardous Substances Pollution Contingency Plan; and

WHEREAS, a Phase II investigation of the subject site pursuant to a DEC-approved Work Plan was completed; and

WHEREAS, based on the results of the Phase II investigation, DEC identified the need for additional field sampling and remediation measures at the subject site; and

WHEREAS, the applicant has proposed a sub-slab vapor barrier system beneath the Incubator to ensure that any contamination within the undisturbed soil remaining on the site does not pose a risk to future occupants of the new building; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the

New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an M1-1 zoning district, the proposed enlargement of a three-story building occupied by medical research laboratories (Use Group 17) and offices, which does not comply with zoning requirements concerning FAR, initial setback distance, sky exposure plane, the number and dimensions of parking spaces, and off-street loading berths, contrary to ZR §§ 43-12, 43-43, 44-21, 44-42 and 44-52, *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 June 10, 2011" – (10) sheets; and *on further condition*:

THAT the enlarged building will have the following parameters: a maximum floor area of 50,074 sq. ft. (1.48 FAR); a total height of 52'-2", and a minimum of 29 parking spaces, as illustrated on the BSA-approved plans;

THAT DOB shall ensure that a sub-slab vapor barrier system is included in the plans for the proposed building;

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

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

Adopted by the Board of Standards and Appeals, June 14, 2011.

56-10-BZ

APPLICANT – T-Mobile Northeast LLC, for Luca & Maryann Guglielmo, owners.

SUBJECT – Application April 19, 2010 – Variance (§72-21) to construct a telecommunications facility on the rooftop of an existing building. The proposal is contrary to perimeter wall height (§33-431) sky exposure plane (§33-431) and front yard (§23-45). C1-2/R3-2 zoning district.

PREMISES AFFECTED – 3424 Quentin Road, Quentin Road and East 35th Street, Block 7717, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Adam Moss and Jason Fichter.

For Opposition: Mary Campbell.

ACTION OF THE BOARD – Laid over to July 26, 2011, at 1:30 P.M., for continued hearing.

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119-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Samson and Rivka Molinsky, owners.

SUBJECT – Application June 28, 2010 – Variance (§72-21) to allow legalization of an enlargement of a residential building, contrary to front yard (§23-45) and height (§23-631) regulations. R2X zoning district.

PREMISES AFFECTED – 787 Cornaga Avenue, southwest corner of Cornaga Avenue and Mador Court, Block 15571, Lot 133, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Josh Rinesmith, Richard Lobel, Lewis Garfinkel, Boomie Pinter, Jonathon Rapfogel, Rivka Molinsky.

ACTION OF THE BOARD – Laid over to July 12, 2011, at 1:30 P.M., for continued hearing.

128-10-BZ

APPLICANT – Eric Palatnik, P.C., for Merhay Yagaduyev, owner; Jewish Center of Kew Gardens Hill Inc., lessee.

SUBJECT – Application July 13, 2010 – Variance (§72-21) to permit proposed synagogue, religious school and Rabbi's residence (*Jewish Center of Kew Gardens*) contrary to floor area and lot coverage (§24-11), height, setback and sky exposure plane (§24-521), front yard (§24-34), side yards (§24-35), side setback (§24-551), and minimum distance between windows (§24-672 and §23-863). R4 zoning district.

PREMISES AFFECTED – 147-58 77th Road, 150th Street and 77th Road, Block 6688, Lot 31, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik and Sandy Anagnostov.

ACTION OF THE BOARD – Laid over to July 26, 2011, at 1:30 P.M., for continued hearing.

6-11-BZ

APPLICANT – Paul Bonfilio, for Denis Forde, Rockchapel Reality, LLC, owner.

SUBJECT – Application January 19, 2011 – Variance (§72-21) to permit the construction of a one family detached residence on a vacant corner tax lot contrary to ZR §23-711 for minimum distance between buildings on the same zoning lot; ZR §23-461 for less than the required width of a side yard on a corner lot and ZR §23-89(b) less than the required open area between two buildings. R2A zoning district.

PREMISES AFFECTED – 50-20 216th Street, corner of 51st Avenue, Block 7395, Lot 13, 16, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Paul Bonfilio.

For Opposition: Council Member Daniel Halloran, Xavier San Miguel of Senator Tony Avella Office, Anthony Lemma of Assembly Member Office, Michael Feiner, Armando

Coutinho, Sebastian D'Agostino, David S. Goldstein, Henry Euler, Ann Porfilio, Jay Koellner, Mary B. MaLone, Nancy Togmen, Brenda Goldstein, Richard Kashdan, Rita Kashdan, and others.

ACTION OF THE BOARD – Laid over to July 26, 2011, at 1:30 P.M., for continued hearing.

19-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Chaya Brown and Yechiel Fastag, owners.

SUBJECT – Application February 24, 2011 – Special Permit (§73-622) for the enlargement of an existing single family residence, contrary to floor area and open space (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1271 East 24th Street, east side of East 24th Street, between Avenue L and Avenue M, Block 7642, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to July 12, 2011, at 1:30 P.M., for decision, hearing closed.

23-11-BZ

APPLICANT – Sheldon Lobel, P.C., for 484 Fulton Owner, LLC, owner; 490 Fulton Street Fitness Group, LLC, lessee.

SUBJECT – Application March 3, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*). C5-4 (DB) zoning district.

PREMISES AFFECTED – 490 Fulton Street, west side of Bond Street, between Fulton Street and Livingston Street, Block 159, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to July 12, 2011, at 1:30 P.M., for decision, hearing closed.

34-11-BZ

APPLICANT – Joan Humphreys/A & H Architecture PC, for Keith W. Bails/272 Driggs Avenue Corporation, owner; Adriane Stare/Caribou Baby d/b/a Stollenwerck Stare LLC, 272 Driggs Avenue, lessee.

MINUTES

SUBJECT – Application March 29, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Caribou Baby*). C2-4 Overlay/R6B zoning district.

PREMISES AFFECTED – 272 Driggs Avenue, north side of Driggs Avenue 85.29' west of Eckford Street, Block 2681, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Joan Humphreys.

For Administration: Anthony Scaduo, Fire Department.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 12, 2011, at 1:30 P.M., for decision, hearing closed.

49-11-BZ

APPLICANT – Sheldon Lobel, P.C., for A & G Real Estate, LLC, owner; Barry Bootcamp, lessee.

SUBJECT – Application April 15, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Barry's Bootcamp*). C6-3A zoning district.

PREMISES AFFECTED – 135 West 20th Street, north side of West 20th Street, between 6th and 7th Avenues, Block 796, Lot 18, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 12, 2011, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.