
BULLETIN

OF THE
NEW YORK CITY BOARD OF STANDARDS
AND APPEALS

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

Volume 96, No. 30

July 27, 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

CONTENTS

DOCKET	466
CALENDAR of August 16, 2011	
Morning	467
Afternoon	468

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, July 19, 2011**

Morning Calendar469

Affecting Calendar Numbers:

982-83-BZ 191-20 Northern Boulevard, Queens
49-06-BZ 2041 Flatbush Avenue, Brooklyn
1045-67-BZ 160-10 Cross Bay Boulevard, Queens
172-96-BZ 597/599 Marcy Avenue, Brooklyn
229-10-BZY 163 Orchard Street, Manhattan
77-11-A 35-16 Astoria Boulevard, Queens

Afternoon Calendar472

Affecting Calendar Numbers:

61-10-BZ 183 East Broadway, Manhattan
10-11-BZ &
 11-11-BZ 115, 121 Finely Avenue, Staten Island
36-11-BZ 270 Greenwich Street/103 Warren Street, Manhattan
201-08-BZ 40-38 216th Street, Queens
169-09-BZ 186 Saint George's Crescent, Bronx
230-09-BZ 1700 White Plains Road, Bronx
4-11-BZ 1747-1751 East 2nd Street, aka 389 Quentin Road, Brooklyn
51-11-BZ 1226 East 26th Street, Brooklyn
55-11-BZ 2914 Third Avenue, Bronx
56-11-BZ 957 East 7th Street, Brooklyn
57-11-BZ 208 West 125th Street, Manhattan
59-11-BZ 439 Port Richmond Avenue, Staten Island

Correction482

Affecting Calendar Numbers:

173-06-A 240-28 128th Avenue, Queens
19-11-BZ 1271 East 24th Street, Brooklyn
34-11-BZ 272 Driggs Avenue, Brooklyn

DOCKET

New Case Filed Up to July 19, 2011

101-11-BZ

1152 East 24th Street, W/S of East 234th Street 400' South of Avenue "K", Block 7623, Lot(s) 67, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) to permit the enlargement at the rear of an existing two story residence resulting in 3,745 sq ft of floor area and an enlargement of the attic. R2 zoning district R2 district.

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

CALENDAR

AUGUST 16, 2011, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, August 16, 2011, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

593-69-BZ

APPLICANT – Eric Palatnik, P.C., for Metro New York Dealer Stations, LLC, owner.

SUBJECT – Application May 27, 2011 – Amendment pursuant to §11-413 to convert the automotive repair bays to an accessory convenience store at an existing gasoline service station (Shell). C2-2/R5 zoning district.

PREMISES AFFECTED – 108-01 Atlantic Avenue, Between 108th and 109th Street. Block 9315, Lot 23, Borough of Queens.

COMMUNITY BOARD #9Q

58-99-BZ

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

SUBJECT – Application May 19, 2011 – Extension of Term (§11-411) for the continued operation of a gasoline service station (Gulf) which expired on October 26, 2009; an Amendment to the previously approved plans to remove the canopy and Waiver of the Rules. R3-2 zoning district.

PREMISES AFFECTED – 18-10 Utopia Parkway, Entire block is bounded by utopia Parkway, 18th Avenue, 169th Street and 19th Avenue. Block 5743, Lot 75. Borough of Queens.

COMMUNITY BOARD #7Q

185-05-BZ

APPLICANT – John C. Chen for 62-02 Roosevelt Avenue Corporation, owner; Lapchi, Incorporated, lessee.

SUBJECT – Application April 20, 2011 – Extension of Term to a previously granted Variance (§72-21) for the continued operation of an eating and drinking establishment with dancing (UG12A) which expired on January 10, 2008; Amendment to permit the enlargement of the dance floor and kitchen; Extension of Time to complete construction which expired on January 10, 2009 and waiver of the rules. C1-2/R6 zoning district.

PREMISES AFFECTED – 62-02 Roosevelt Avenue, south side of Roosevelt Avenue 192.59' west side of intersection of 63rd Street/Roosevelt Avenue. Block 1294, Lot 58. Borough of Queens.

COMMUNITY BOARD #2Q

259-06-BZ

APPLICANT – Fredrick A. Becker, for Ahi Ezer Congregation, owner.

SUBJECT – Application July 11, 2011 – Extension of Time to Complete Construction of a previously granted Variance (72-21) for the enlargement of an existing one and two-story synagogue which expired on June 12, 2011. R-5 (OP) zoning district.

PREMISES AFFECTED – 1885-1891 Ocean Parkway, northeast corner of Ocean Parkway and Avenue S, Block 682, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #15BK

302-06-BZ

APPLICANT – Harold Weinberg, for Mirrer Yeshiva, owner.

SUBJECT – Application July 8, 2011 – Extension of Time to Complete Construction of a previously granted Variance (72-21) for the construction of a mezzanine and a two-story enlargement over the existing two-story community facility building which expired on June 12, 2011. R6A in OP zoning district.

PREMISES AFFECTED – 1791 Ocean Parkway, between Ocean Parkway, Avenue R and East 7th Street, Block 6663, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEALS CALENDAR

224-10-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative, Incorporated, owners, John & Daniel Lynch, lessee.

SUBJECT – Application December 7, 2010 – Proposed reconstruction and enlargement not fronting on a legally mapped street contrary to General City Law Section 36 and the building and private disposal system is located within the bed of a mapped street contrary to General City Law Section 35 and Department of Buildings Policy. R4 Zoning District.

PREMISES AFFECTED – 173 Reid Avenue, east side of Reid Avenue 245.0 north of Breezy Point Boulevard. Block 16359, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

232-10-A

APPLICANT – OTR Media Group, Incorporated, for 4th Avenue Loft Corporation, owner;

SUBJECT – Application December 23, 2010 – An appeal challenging Department of Buildings determination to deny the issuance of a sign permit on the basis that a lawful advertising sign has not been established and not discontinued as per ZR Section 52-83. C1-6 Zoning District. PREMISES AFFECTED – 59 Fourth Avenue, 9th Street &

CALENDAR

Fourth Avenue. Block 555, Lot 11. Borough of Manhattan.
COMMUNITY BOARD #3M

AUGUST 16, 2011, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 16, 2011, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

48-11-BZ

APPLICANT – Richard C. Bonsignore, for Joseph Moinian, owner; Mendez Boxing New York, lessee.

SUBJECT – Application April 13, 2011– Special Permit (§73-36) to allow the operation of a physical culture establishment (Mendez Boxing). C5-2 zoning district.

PREMISES AFFECTED – 60 Madison Avenue, aka 54-60 Madison Avenue, aka 23-25 East 26th Street, aka 18-20 East 27th Street, North side of Madison Avenue at East 26th Street and the north east corner to East 27th Street. Block 856, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #5M

54-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Bay Parkway Group LLC, owner.

SUBJECT – Application April 21, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory diagnostic or treatment facility building. R6/C1-3 zoning district.

PREMISES AFFECTED – 6010 Bay Parkway, west side of Bay Parkway between 60th Street and 61st Street, Block 5522, Lot 36 & 32, Borough of Brooklyn.

COMMUNITY BOARD #12BK

65-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Vornado Gun Hill Road LLC, for Gun Hill Road Fitness Group, lessee.

SUBJECT – Application May 12, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) in portion of an existing one-story building. The premises is located in a C2-1/R3-2 zoning district. The proposal is contrary to Section 32-31.

PREMISES AFFECTED – 1750 East Gun Hill Road, frontage on East Gun Hill Road, Gunther Avenue, and Bergen Avenue, Block 4494, Lot 1, Borough of Bronx.

COMMUNITY BOARD #11BX

68-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Rivkie Weingarten and Nachum Weingarten, owners.

SUBJECT – Application April 16, 2011 – Special Permit (§73-622) for enlargement of existing single family home, contrary to floor area, lot coverage and open space (§23-141); rear yard (§23-47) and side yard (§23-461). R3-2 zoning district.

PREMISES AFFECTED – 1636 East 23rd Street, between Avenue P and Quentin Road, Block 6785, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JULY 19, 2011
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

982-83-BZ

APPLICANT – H Irving Sigman, for Barone Properties, Inc., owner.

SUBJECT – Application February 22, 2011 – Extension of Term (§11-411) of a previously approved variance permitting retail and office use (UG 6), which expired on March 6, 2009; Extension of Time to obtain a Certificate of Occupancy which expired on May 25, 2006; Amendment (§11-412) to increase number of stores/offices from five to six; Waiver of the Rules. R3-2 zoning district.

PREMISES AFFECTED – 191-20 Northern Boulevard, southwest corner of 192nd Street, Block 5513, Lot 27, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: H. Irving Sigman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for the continued use of a retail and office building, an extension of time to obtain a certificate of occupancy, and an amendment to permit certain modifications to the site; and

WHEREAS, a public hearing was held on this application on April 12, 2011, after due notice by publication in *The City Record*, with continued hearings on May 24, 2011 and June 21, 2011, and then to decision on July 19, 2011; and

WHEREAS, Community Board 11, Queens, recommends approval of this application, with the following conditions: (1) the applicant comply with all conditions from prior Board grants; (2) the 19 feet of concrete on the corner of 192nd Street and Northern Boulevard be removed and replaced with landscaping; (3) no physical culture establishment (“PCE”) be permitted to operate at the site; and (4) the term be limited to five years; and

WHEREAS, representatives of the Auburndale Improvement Association, Inc., and certain members of the community provided oral and written testimony in opposition to this application, citing concerns that the applicant has not complied with certain conditions from prior grants, and

requesting that the following restrictions be placed on the site: (1) deliveries and commercial garbage collection must be done only during regular business hours; (2) the plot located on the southwest corner of 192nd Street and Northern Boulevard be landscaped and fenced; (3) no PCE be permitted to operate at the site; and (4) the term be limited to five years; and

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

WHEREAS, the premises is located on the southwest corner of Northern Boulevard and 192nd Street, within an R3-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 23, 1946 when, under BSA Cal. No. 322-46-BZ, the Board granted a variance to permit the construction of a showroom and accessory sales of motor vehicles also to be used in the servicing of cars, for a term of ten years; and

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

WHEREAS, on March 6, 1984, under the subject calendar number, the Board granted a change in use to retail stores and offices for a term of 15 years; and

WHEREAS, on December 7, 1999, the grant was extended for a term of ten years, which expired on March 6, 2009; and

WHEREAS, most recently, on May 25, 2004, the Board granted an amendment to permit changes to the interior layout of the site, including the construction of demising walls increasing the number of stores/offices from three to four and the addition of an exterior canopy fronting Northern Boulevard; and

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

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

WHEREAS, the applicant also seeks an amendment to the previously approved plans to permit the construction of a new demising wall in order to increase the number of stores/offices at the first floor from four to five, and to remove the exterior canopy fronting Northern Boulevard; and

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

WHEREAS, at hearing, the Board directed the applicant to establish that it complies with the conditions from previous Board grants; and

WHEREAS, in response, the applicant submitted evidence documenting that the site complies with or is in the process of complying with all conditions from previous Board grants; and

WHEREAS, specifically, the applicant states that 50 off-site parking spaces are provided at 190-02 Northern Boulevard, submitted photographs showing that signs have been installed in the stores and offices at the site directing customers to the availability of these spaces, and submitted a service agreement reflecting that a private towing service has been engaged to

MINUTES

remove any illegally parked vehicles, including trucks, from the accessory parking lot and to lock the gates to the parking facility at night; and

WHEREAS, the applicant also submitted revised plans reflecting that the easternmost curb cut on Northern Boulevard will be removed, and that landscaping will be provided along the 192nd Street frontage; and

WHEREAS, in response to the other concerns raised by the Community Board and other members of the community, the applicant states that it will require that deliveries and garbage pickup at the site only occur during business hours, Monday through Friday, from 8:00 a.m. to 5:00 p.m., and that PCE use will not be permitted to occupy the site; and

WHEREAS, as to the request that the term be limited to five years, the applicant submitted a letter from the owner stating that such a short term would cause difficulty in negotiating long term leases, acquiring quality tenants, and obtaining conventional financing for the site, and therefore requests that the Board grant a ten-year extension of term; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term, extension of time to obtain a certificate of occupancy, and the proposed amendments are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on March 6, 1984, so that as amended this portion of the resolution shall read: “to extend the term for ten years from March 6, 2009, to expire on March 6, 2019, to grant an extension of time to obtain a certificate of occupancy to July 19, 2012, and to permit the noted site modifications *on condition* that all work and the site layout shall substantially conform to drawings as filed with this application, marked ‘Received May 10, 2011’-(2) sheets and ‘June 9, 2011’-(1) sheet; and *on further condition*:

THAT the term of this grant shall expire on March 6, 2019;

THAT deliveries and garbage pickup shall only occur during business hours, Monday through Friday, from 8:00 a.m. to 5:00 p.m.;

THAT the easternmost curb cut on Northern Boulevard shall be removed and the curb restored in accordance with the BSA-approved plans;

THAT landscaping and fencing shall be provided along 192nd Street in accordance with the BSA-approved plans;

THAT the use and occupancy of the site shall not include physical culture establishments;

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

THAT a new certificate of occupancy shall be obtained by July 19, 2012;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning

Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB App. No. 420054540)

Adopted by the Board of Standards and Appeals, July 19, 2011.

49-06-BZ

APPLICANT – Sheldon Lobel, P.C., for JZB Holdings LLC, owner.

SUBJECT – Application June 7, 2011 – Extension of Time to complete construction of a previously granted Variance (§72-21) for the construction of a two-story commercial building which expired on May 8, 2011. R3-2/C1-2 zoning district.

PREMISES AFFECTED – 2041 Flatbush Avenue, Southeastern corner of the intersection of Flatbush Avenue and Baughman Place. Block 7868, Lot 18. Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Nora Martins.

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 C1-2 (R3-2) zoning district, the construction of a two-story commercial building, which expired on May 8, 2011; and

WHEREAS, a public hearing was held on this application on June 21, 2011, after due notice by publication in *The City Record*, and then to decision on July 19, 2011; and

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

WHEREAS, the subject site is located on the southeast corner of Flatbush Avenue and Baughman Place within a C1-2 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since May 8, 2007 when, under the subject calendar number, the Board granted a variance to permit the proposed construction of a two-story commercial building, which does not comply with applicable zoning requirements concerning FAR and parking, contrary to ZR §§ 33-121 and 36-21; and

WHEREAS, substantial construction was to be completed by May 8, 2011, in accordance with ZR § 72-23; and

WHEREAS, the applicant states that due to financing delays, construction has not yet commenced on the site and additional time is necessary to complete the project; thus, the applicant now requests an extension of time to complete

MINUTES

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 May 8, 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 May 8, 2015; on condition:

THAT substantial construction shall be completed by May 8, 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. 301997258)

Adopted by the Board of Standards and Appeals, July 19, 2011.

1045-67-BZ

APPLICANT – Michael A. Cosentino, for Thomas Abruzzi, owner.

SUBJECT – Application June 14, 2011 – Extension of Time to obtain a Certificate of Occupancy for a previously approved Variance (§72-01 & §72-22) for an accessory parking lot to be used for adjoining commercial uses which expired on May 18, 2011. C2-2/R-2 zoning district.

PREMISES AFFECTED – 160-10 Cross Bay Boulevard, between 160th and 161st Avenue, Block 14030, Lots 6 & 20, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES –

For Applicant: Michael A. Cosentino and Tony Cosentino.

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 August 16, 2011, at 10 A.M., for decision, hearing closed.

172-96-BZ

APPLICANT – Law Office of Mitchell Ross, for Don Mitchell, owner; D/B/A Mitchell Iron Works, lessee.

SUBJECT – Application June 29, 2011 – Extension of Time to obtain a Certificate of Occupancy for an existing (UG 16) welding shop which expired on May 17, 2010; Waiver of the Rules. C1-3/R6 zoning district.

PREMISES AFFECTED – 597/599 Marcy Avenue, southeast corner of March and Vernon Avenue, Block 1759, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES – None.

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

APPEALS CALENDAR

229-10-BZY

APPLICANT – Akerman Senterfitt, for 163 Orchard Street, LLC, owner.

SUBJECT – Application December 17, 2010 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior C6-1 zoning district. C4-4A zoning district.

PREMISES AFFECTED – 163 Orchard Street, Orchard and Houston Streets, between Sytanton and Rivington Street, Block 416, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Calvin Wong.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

77-11-A

APPLICANT – Akerman Senterfitt LLP, for 3516 Development LLC, owner.

SUBJECT – Application May 27, 2011 – Appeal seeking a determination that the property owner has acquired a common law vested right to continue development under the prior R6 zoning regulations. R6B zoning district.

PREMISES AFFECTED – 35-16 Astoria Boulevard, South side of Astoria Boulevard between 35th and 36th Streets. Block 633, Lots 39 & 140, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Calvin Wong.

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

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, JULY 19, 2011
1:30 P.M.**

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

ZONING CALENDAR

61-10-BZ

CEQR #10-BSA-068M

APPLICANT – James Chin & Associates, LLC, for Norman Wong, owner.

SUBJECT – Application April 26, 2010 – Variance (§72-21) to legalize an existing building contrary to height (§23-692), lot coverage (§23-245), rear yard (§23-532) and floor area (§23-145) regulations. R7-2/C1-5 zoning district.

PREMISES AFFECTED – 183 East Broadway, 43.5’ frontage on Henry Street and 26.1 frontage on East Broadway, Block 284, Lot 19, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: James Chin

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 May 17, 2011, acting on Department of Buildings Application No. 104314939, reads, in pertinent part:

Proposed building exceeds the maximum building height permitted in R7-2 zoning district as per ZR 23-633 & 23-692

Proposed lot coverage does not comply with ZR 23-145 (max. lot coverage). Maximum lot coverage permitted in a R7-2 is 65%. Under this application the proposed lot coverage is 67.7%

Proposed rear yard (through lot) does not comply with the requirement of section ZR 23-532(a),(b),(c); ZR 23-543(a); ZR 23-47; and ZR 24-393(a); and

WHEREAS, this is an application under ZR § 72-21, to permit, partially within a C1-5 (R7-2) zoning district and partially within an R7-2 zoning district, the construction of a six-story mixed-use building with ground floor retail and community facility use and residential above, which does not comply with the underlying zoning regulations for height, lot coverage, and rear yard, contrary to ZR §§ 23-633, 23-692, 23-145, 23-532, 23-543, 23-47 and 24-393; and

WHEREAS, a public hearing was held on this application on March 8, 2011, after due notice by publication in the *City Record*, with continued hearings on May 3, 2011 and June 21, 2011, and then to decision on July 19, 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, Community Board 3, Manhattan, recommends approval of this application; and

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

WHEREAS, certain members of the community provided testimony in opposition to this application, citing concerns with the impact of the proposed building on the surrounding neighborhood character; and

WHEREAS, the site is located on an irregular bottleneck-shaped lot with 43’-10” of frontage on Henry Street, 26’-1” of frontage on East Broadway, a depth of 175 feet, and a total lot area of 5,873 sq. ft., partially within a C1-5 (R7-2) zoning district and partially within an R7-2 zoning district; and

WHEREAS, the portion of the lot bordering on East Broadway, with a width of 26’-1”, is a through lot that extends 175 feet from East Broadway to Henry Street; and

WHEREAS, however, two portions of the lot qualify as interior lots: (1) the 4’-9” wide by 75’-0” deep portion of the lot bordering the west side of Henry Street; and (2) the 12’-8” wide by 75’-0” deep portion of the lot bordering the east side of Henry Street; and

WHEREAS, the site was formerly occupied by an 81-year-old mixed-use residential/ commercial building which ranged in height from one-story to five stories with a legal non-complying rear yard of 9’-11” on the Henry Street portion of the building (the “Pre-Existing Building”), which was demolished in anticipation of construction on the site; and

WHEREAS, the site is currently occupied by the structural steel and concrete shell for a seven-story building with a height of 91 feet (the “Current Building”), which was constructed as part of a proposed 12-story mixed-use residential/commercial/community facility building which the Department of Buildings (“DOB”), after initially approving the plans associated with the building and issuing a New Building Permit, determined did not comply with ZR § 23-692 (the “sliver rule”) due to the narrowness of the lot, and revoked the permit; and

WHEREAS, the applicant now proposes to demolish a portion of the Current Building in order to develop a six-story mixed-use residential/commercial/community facility building with first floor retail space fronting East Broadway, first floor community facility space fronting Henry Street, and 25 residential apartments on the second through sixth floors; and

WHEREAS, the proposed building will have a total floor area of 23,724 sq. ft. (4.04 FAR), including a residential floor area of 20,203 sq. ft. (3.44 FAR) (the maximum permitted residential floor area is 20,203 sq. ft.

MINUTES

(3.44 FAR)); a commercial floor area of 2,236 sq. ft. (0.86 FAR) (the maximum permitted commercial floor area is 5,216 sq. ft. (2.0 FAR)); and a community facility floor area of 1,285 sq. ft. (0.22 FAR) (the maximum permitted community facility floor area is 38,175 sq. ft. (6.5 FAR)); and

WHEREAS, the proposal will have the following non-complying parameters: lot coverage of 68 percent (65 percent is the maximum permitted lot coverage); a total height of 80'-8" (a maximum building height of 75'-0" is permitted); and intrusion into the rear yard equivalent, which requires a 60'-0" open area centered at the midpoint of the length of the lot; and

WHEREAS, the applicant states that the non-compliances related to building height, lot coverage, and the required rear-yard equivalent are related to the application of ZR § 23-692; and

WHEREAS, as to the required rear-yard equivalent, because the subject lot is a through lot, ZR § 23-692 prohibits the applicant from providing the rear-yard equivalent by means of yards fronting each street, which is the method employed by the Current Building, and requires instead that the rear-yard equivalent be taken at the midpoint of the lot, where the bulk of the Current Building is concentrated; and

WHEREAS, the applicant notes that although the building was not initially proposed under the Quality Housing Program, the residential portion of the building is now proposed as Quality Housing; and

WHEREAS, the applicant further notes that, pursuant to ZR § 23-633, Quality Housing buildings have a maximum building height of 75'-0", which is more restrictive than the maximum building height of 78'-0" permitted under ZR § 23-692; therefore, the more restrictive height provision of the ZR § 23-633 applies to the subject building; and

WHEREAS, the applicant initially proposed to retain all of the Current Building and construct a seven-story mixed-use building with a total height of 91 feet, a total floor area of 26,009 sq. ft. (4.43 FAR), and a residential floor area of 22,488 sq. ft. (3.83 FAR); and

WHEREAS, at the Board's direction, the applicant submitted revised plans reflecting the removal of the seventh floor of the building, resulting in the reduced building height of 80'-8" and a complying residential FAR of 3.44; and

WHEREAS, because relief from the bulk requirements of the underlying zoning district is necessary, the applicant requests the subject variance; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with the underlying district regulations: (1) the narrow, irregular-shaped lot; (2) the poor soil conditions; (3) the need to demolish the Pre-Existing Building and remove the existing foundations; and (4) the poor structural stability of the adjacent buildings; and

WHEREAS, the applicant initially also included an assertion that the practical difficulty and unnecessary hardship in developing the site arise from the reliance in

good faith on DOB's approval of its plans and subsequent issuance of a building permit for the construction of a 12-story mixed-use building at the site; and

WHEREAS, the applicant set forth a timeline for the approval and construction process, which includes multiple meetings with plan examiners until DOB ultimately approved plans and issued a New Building Permit for the 12-story mixed-use building; subsequently, DOB responded to complaints about the building's zoning compliance and initially determined that the building complied, however, as the result of further review, DOB issued objections which led to the permit revocation; and

WHEREAS, the Board identifies the key questions that have emerged in the good faith reliance inquiry as: (1) whether the permit was void on its face; (2) whether there was any way the applicant could have known about the invalidity of the permit; and (3) whether there were multiple municipal assurances of validity; and

WHEREAS, at the beginning of the hearing process the Board raised concerns regarding the applicant's claim of good faith reliance, given that the text of ZR § 23-692 (the "sliver rule") was unambiguous and therefore the applicant had constructive notice that the text applied to the subject site; and

WHEREAS, the applicant asserted that the site is constrained by unique physical conditions and suffers an unnecessary hardship such that the requested variance is warranted even without a claim based on good faith reliance; and

WHEREAS, accordingly, the applicant revised its papers to reflect the noted unique site conditions as the basis for its hardship claim; and

WHEREAS, subsequently, the applicant did not pursue its argument that the variance be granted based on its reliance in good faith on DOB's approval of its plans and subsequent issuance of a building permit; and

WHEREAS, thus, the Board did not fully consider the initial claims of good faith reliance; and

WHEREAS, as to the irregular shape of the lot, the applicant states that because of the unusual configuration of the lot, including differing widths from one side of the lot to the other, and the combination of a narrow through lot and shallow interior lots, development on the site is constrained; and

WHEREAS, specifically, the applicant states that the narrow width triggers ZR § 23-692, which limits the height of the building to the width of the fronting street; and

WHEREAS, however, the applicant states that as opposed to interior lots, when ZR § 23-692 is applied to a through lot the zoning requires the construction of two buildings on the lot because it requires the rear-yard equivalent to be provided in the center of the lot; and

WHEREAS, the applicant further states that the need to provide two residential towers creates the need for a second building core, a second lobby, and additional stairs, exterior wall length, plumbing, and other systems, resulting in additional costs estimated at \$525,000; and

WHEREAS, specifically, the applicant states that if it

MINUTES

complied with the 60'-0" open area rear yard equivalent requirement and the additional 30'-0" rear yard requirements (measured from the lot line of each of the shallow interior portions of the lot), the applicant would be left with a non-uniform tri-sectional yard area, and would have to construct two dissimilar residential towers, one at each of the two street frontages; and

WHEREAS, the applicant states that the narrowness of the lot also causes difficulty in construction equipment staging, as it requires the staging of excavation and foundation work in numerous small sectional areas rather than one or two large areas, and limits the size of the excavation and concrete equipment that could be used on the site, thereby increasing the cost of construction; and

WHEREAS, as to the uniqueness of this condition, the applicant submitted a radius diagram reflecting that there is no other through lot within 400 feet of the subject site, and that of the seven other through lots within 800 feet of the subject site, four have larger frontages and are therefore not subject to ZR § 23-692, and the three other lots that are less than 45 feet wide are all located within a C6-2 zoning district, and are therefore not subject to the height and rear yard restrictions of ZR § 23-692; and

WHEREAS, as to the poor soil conditions, the applicant states that the soil at the site has a low bearing capacity of only 1.5 tons per sq. ft.; and

WHEREAS, the applicant submitted reports from the project engineer and the contractor stating that a spread footing foundation system would normally be used for the subject site, but due to the low bearing capacity of the soil, a more costly concrete mat foundation is required for the site; and

WHEREAS, as to the uniqueness of this condition, the engineer's report states that the normal soil capacity for sites in the surrounding area is at least 2.0 tons per sq. ft., which is sufficient to support a spread footing foundation system, and that the poor soil capacity at the subject site may be explained by a localized pocket of such soil; and

WHEREAS, as to the Pre-Existing Building, the applicant states that it was an obsolete 81-year-old building with no elevators, a deficient, non-complying rear yard, no ADA accessibility, and combustible framing, which could not have feasibly been re-used to construct an as-of-right building on the site and therefore had to be demolished; and

WHEREAS, the applicant further states that the old foundation was of a rubble stone foundation which could not be re-used for a new building, incorporated into a new foundation, or left in place to be worked around because of a history of structural problems due to settlement and movement as a result of the poor soil conditions on the site; and

WHEREAS, the applicant states that it also needed to remove a heavy foundation bed that formerly supported industrial equipment and included a number of concrete grade beams tied into the foundations of the Pre-Existing Building walls; and

WHEREAS, as to the structural stability of the adjacent buildings, the applicant states that the adjoining

building to the east of the site shared party walls with the Pre-Existing Building and required extensive rebuilding and repair of the walls and foundation so as to not damage the adjacent building or cause shift, and the foundation walls of the adjacent building to the west were integrated and adhered by mortar to the walls of the Pre-Existing Building; and

WHEREAS, the applicant further states that the two adjacent buildings were sitting upon rubble stone foundations which necessitated that the applicant perform extensive underpinning, and the overall instability of the adjacent buildings required the installation of lateral bracing across both sides of the subject site to prevent the adjacent buildings from shifting or sliding; and

WHEREAS, the Board notes that the constraints related to the condition of the Pre-Existing Building, the removal of existing foundations, and the poor structural stability of the adjacent buildings are not unique to the site and are conditions generally faced by sites in the surrounding area; and

WHEREAS, the Board further notes that the applicant did not establish a basis for relief based on its good faith reliance on DOB's approval of its plans and subsequent issuance of a building permit, and the applicant did not pursue its good faith reliance claim after initially raising it; and

WHEREAS, however, the Board finds that certain of the unique conditions mentioned above, namely the narrowness of the lot and the shallowness of certain portions of the lot, as well as the poor load bearing capacity of the soil, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following scenarios: (1) the hypothetical as-of-right re-development and enlargement of the Pre-Existing Building, had the exterior walls been kept in place and retail and community facility use incorporated at the cellar and basement levels, with 26 residential units on the first through sixth floors; (2) the demolition of the Current Building and the construction of an as-of-right mixed-use building; (3) the demolition of the Current Building and the construction of an as-of-right community facility building; (4) a lesser variance scenario consisting of the completion of the Current Building as a seven-story mixed-use building with community facility space on the first and second floors, and with 25 residential apartments on the third through seventh floors; and (5) the initial proposal consisting of the completion of the Current Building as a seven-story mixed-use building with ground floor retail and community facility use, with 28 residential apartments above; and

WHEREAS, the applicant concluded that only the initial proposal resulted in a reasonable return; and

WHEREAS, the Board directed the applicant to analyze several other alternatives, including the current proposal which does not require a residential FAR waiver and consists of the demolition of the seventh floor of the

MINUTES

Current Building and the re-use of the remaining six floors for a mixed-use building with ground floor retail and community facility use, with 25 residential apartments above; and

WHEREAS, the applicant submitted a revised feasibility analysis reflecting that the proposed building would also generate a reasonable return; and

WHEREAS, because the Board does not give any credit towards any costs associated with the construction or demolition of the Current Building, the Board also requested that the applicant analyze the following “clean slate” scenarios which assume that the Current Building does not exist and that new construction of a mixed-use building would require the demolition of the Pre-Existing Building: (1) the new construction of an as-of-right six- and seven-story mixed-use building, with two residential towers and a second building core; and (2) the new construction of the proposed building; and

WHEREAS, the applicant submitted a revised feasibility analysis which reflects that, even assuming the Current Building did not exist, only the proposed building would have generated a reasonable return as new construction; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot’s unique physical conditions, there is no reasonable possibility that development in strict compliance with the bulk provisions applicable in the subject zoning district will provide a reasonable return; and

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

WHEREAS, the applicant states that the surrounding neighborhood is characterized by a mix of residential, commercial, and community facility uses; and

WHEREAS, the applicant submitted a 400-ft. radius diagram reflecting that a 14-story hospital building is located one block to the southeast of the site, at the corner of Henry Street and Jefferson Street, and a 21-story residential building is located one block to the northeast of the site, along East Broadway; and

WHEREAS, the radius diagram submitted by the applicant further reflects that the majority of residential buildings in the surrounding area range in height between five and ten stories; and

WHEREAS, the applicant states that the non-complying rear yard for the proposed building will not alter the character of the surrounding neighborhood because none of the lots on the subject block have a complying rear yard; and

WHEREAS, the applicant further states that, taken as an aggregate, the yards on the East Broadway side of the building and the Henry Street side of the building (which would satisfy the rear-yard equivalent requirement if ZR § 23-692 did not apply), 29 percent of the total lot area on the subject site is dedicated to rear yards; and

WHEREAS, the applicant provided a table reflecting that the subject site has a greater portion of the lot dedicated to rear yards than any other lot on the block; and

WHEREAS, the applicant notes that the residential

portion of the building will comply with all applicable Quality Housing requirements, other than building height and lot coverage; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, as noted above, the applicant initially proposed to retain all of the Current Building and construct a seven-story mixed-use building with a total height of 91 feet, a total floor area of 26,009 sq. ft. (4.43 FAR), and a residential floor area of 22,488 sq. ft. (3.83 FAR); and

WHEREAS, at the Board’s direction, the applicant submitted revised plans reflecting the removal of the seventh floor of the building, which results in a complying residential FAR of 3.44, and a reduced height of 80’-8”;

WHEREAS, the Board notes that if the proposed building were not being constructed as a Quality Housing building, ZR § 23-692 would allow a maximum height of 78’-0” along East Broadway and 78’-6” along Henry Street, based on the height of the adjacent neighbor; and

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

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

WHEREAS, the project is classified as an unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) 10BSA068M, dated December 18, 2009; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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

MINUTES

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, partially within a C1-5 (R7-2) zoning district and partially within an R7-2 zoning district, the construction of a six-story mixed-use building with ground floor retail and community facility use and residential above, which does not comply with the underlying zoning regulations for height, lot coverage, and rear yard, contrary to ZR §§ 23-633, 23-692, 23-145, 23-532, 23-543, 23-47 and 24-393; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received June 7, 2011” – fifteen (15) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as follows: a maximum total floor area of 23,724 sq. ft. (4.04 FAR); a maximum residential floor area of 20,203 sq. ft. (3.44 FAR); a maximum building height of 80’-8”; and a maximum lot coverage of 68 percent, as indicated on the BSA-approved plans;

THAT the interior layout and all exiting requirements 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 substantial construction shall be completed in accordance with ZR § 72-23;

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

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

Adopted by the Board of Standards and Appeals, July 19, 2011.

10-11-BZ & 11-11-BZ

APPLICANT – Rampulla Associates Architects, for Charles Cannizaro, owner.

SUBJECT – Application February 3, 2011 – Variance (§72-21) to allow two, single family homes contrary to front yard (§23-45) and rear yard regulations (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 115, 121 Finely Avenue, north of Finely Avenue, 100’ southwest of Marine Way, Block 4050, Lot 53, 56, 59, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Philip Rampulla.

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 decisions of the Staten Island Borough Commissioner, dated January 4, 2011, acting on Department of Buildings Application Nos. 510028140 and 510028159, reads in pertinent part:

“The subject front yard setback is shown being measured from the record line and not the widening line and is contrary to Section 23-45 (ZR). . .

The subject rear yard is less than the prescribed (30’-0”) rear yard and is contrary to Section 23-47 (ZR);” and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3-1 zoning district within a Lower Density Growth Management Area, the construction of two two-story single-family homes that do not provide the required front and rear yards, contrary to ZR §§ 23-45 and 23-47; and

WHEREAS, a public hearing was held on this application on May 17, 2011, after due notice by publication in *The City Record*, with a continued hearing on June 21, 2011, and then to decision on July 19, 2011; and

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

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

WHEREAS, certain community members provided written and oral testimony in opposition to the application, citing concerns about whether the site could accommodate the proposal and whether the proposal fits within the context of the neighborhood; and

WHEREAS, the site is located on the north side of Finley Avenue, between Ebbitts Street and Marine Way, within an R3-1 zoning district within a Lower Density Growth Management Area; and

WHEREAS, the site consists of a single zoning lot comprising two separate tax lots: Lot 49 and Lot 52, which are planned to be established as separate zoning lots; and

WHEREAS, the applicant states that the lots were created in 1889 and formerly configured as three lots known as Lots 53, 56, and 59; and

WHEREAS, the applicant provided a historic map to support its assertion that the shallow depth of the site has remained unchanged and was not created by the reconfiguration; and

WHEREAS, the applicant notes that because the lots have been reconfigured and did not exist in separate ownership as set forth at ZR § 23-52 (Special Provisions for Shallow Interior Lots), they do not qualify for a reduction in the required rear yard; and

WHEREAS, the applicant notes that because the three historic lots were shallow, it sought to have DOB accept the shifting of the lot lines to create two new shallow lots as satisfying the shallow lot provision, but the request was denied; and

WHEREAS, the applicant notes that the new lots comply with requirements for lot area and lot width; and

MINUTES

WHEREAS, the applicant notes that there is also a street widening line with a depth of 5'-0" along the Finley Avenue frontage, but that Finley Avenue is a final mapped street with a width of 60'-0" and, thus, lot measurements are taken from Finley Avenue; and

WHEREAS, the individual lots have areas of 3,875 sq. ft. (Lot 49) and 3,961.5 sq. ft. (Lot 52); each has a width of 85 feet and depths ranging from approximately 45 feet to approximately 47 feet; and

WHEREAS, the proposed homes will have the following complying parameters each: a total floor area of 1,617 sq. ft. (0.40 or 0.41 FAR); open space ratio of 77 percent; lot coverage of 22 percent; a wall height of 20'-5"; a total height of 26'-0"; side yards with widths of 5'-0" (along the eastern lot lines) and 21'-8" (along the western lot lines); and

WHEREAS, however, the applicant proposes to provide front yards with depths of 5'-0" (a front yard with a minimum depth of 15'-0" is required), and rear yards with depths of 20'-0" (Lot 49) and 21'-0" (Lot 52) (a rear yard with a minimum depth of 30'-0" is required); and

WHEREAS, the applicant states that the requested 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 site's shallow depth; and

WHEREAS, the applicant states that if the required front yard with a depth of 15'-0" and rear yard with a depth of 30'-0" were provided, the site, with a depth ranging from 45'-0" to 47'-0" would be unbuildable; and

WHEREAS, accordingly, the applicant represents that the yard waivers are necessary to create a development with reasonable floor plates; and

WHEREAS, as to the uniqueness of the condition, the applicant states that there is only one other similarly shallow vacant interior lot along Finley Avenue, to the west of the site and that it is in common ownership with another lot on the block and used in conjunction with it; and

WHEREAS, the applicant submitted a radius diagram indicating that the majority of lots within a 400-ft. radius are at least 90 feet in depth; and

WHEREAS, the radius diagram further reflects that the subject site is one of only three sites of any size that are vacant within a 400-ft. radius of the site; and

WHEREAS, the applicant identified another vacant lot beyond the 400-ft. radius of the site, which is used as a parking lot for a townhouse development; and

WHEREAS, the applicant states that two sites to the west, which are also shallow are occupied by buildings built prior to December 15, 1961 and a third site, which is somewhat deeper is also occupied by a home; and

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

WHEREAS, based upon the above, the Board finds that

the cited unique physical condition creates practical difficulties in developing the site in strict compliance with the applicable front yard regulations; and

WHEREAS, the 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 asserts 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 predominantly by two-story semi-detached and detached 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 front and rear yards; and

WHEREAS, specifically, the applicant notes that the proposed home complies with the R3-1 zoning district regulations for FAR, side yards, open space, lot coverage, height, and parking; and

WHEREAS, the applicant states that many single-family homes in the area do not provide the required front and rear yards; and

WHEREAS, the applicant notes that the two homes across Finley Avenue from the site have front yards with depths 17.5 feet and 8.2 feet, which reflects that there is not an established front yard context along Finley Avenue; and

WHEREAS, the applicant initially proposed front yards with depths of 10 feet and rear yards with depths of 16 feet, but, based on concerns raised by the neighbors at the rear, the Board directed the applicant to increase the depth of the rear yards and reduce the depth of the front yards, accordingly; and

WHEREAS, as to the adjacent neighbors' concerns about the proposed homes compromising their access to light and air, the Board notes that the revised proposal results in a depth ranging from 45'-0" for a small portion of the site to 65'-0" between the subject homes and adjacent homes at the rear; and

WHEREAS, the applicant notes that if the individual lots had been owned separately and apart from each other on the dates required by ZR § 23-52, rear yards with depths of 10'-0" would be permitted as-of-right; the applicant proposes rear yards with depths of at least 20'-0"; and

WHEREAS, the applicant asserts that the buildings' heights are comparable to those in the area and that due to the site's inclusion in a Federal Emergency Management Area (FEMA) Flood Hazard District (Zone AE), the minimum first floor elevation permitted is 7.8 feet and a cellar is not permitted; and

WHEREAS, accordingly, the applicant represents that the height of the homes cannot be reduced any further; and

WHEREAS, 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

MINUTES

regulations is inherent to the site's shallow depth; 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 site dimensions; and

WHEREAS, the Board notes that the shallowness of the site is a historic condition and was not created by the applicant's reconfiguration of the length of the individual lots; and

WHEREAS, the Board notes that the proposal complies with all R3-1 zoning district regulations except front and rear yards and that the proposed width of the homes are 15 feet, which reflects 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 R3-1 zoning district within a Lower Density Growth Management Area, the construction of two two-story single-family homes that do not provide the required front and rear yards, contrary to ZR §§ 23-45 and 23-47; *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 28, 2011"– four (4) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: floor area of 1,617 sq. ft. (0.40 or 0.41 FAR) for each home; open space ratio of 77 percent; lot coverage of 22 percent; a wall height of 20'-5"; a total height of 26'-0"; side yards with widths of 5'-0" (along the eastern lot lines) and 21'-8" (along the western lot lines); front yards with depth of 5'-0" and rear yards with a depth of 20'-0" (Lot 49) and 21'-0" (Lot 52), as per the BSA-approved plans;

THAT DOB shall review and approve compliance with the planting requirements under ZR § 23-451;

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

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 substantial 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, July 19, 2011.

36-11-BZ

CEQR #11-BSA-076M

APPLICANT – Francis R. Angelino, Esq., for 270 Greenwich Street Associates LLC, owner; SoulCycle Tribeca, LLC, lessee.

SUBJECT – Application April 1, 2011 – Special Permit (§73-36) to permit the legalization of a Physical Culture Establishment (*SoulCycle*). C6-3 zoning district.

PREMISES AFFECTED – 270 Greenwich Street/103 Warren Street, west side of Joe DiMaggio Highway, Block 142, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Francis R. Angelino.

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 May 19, 2011, acting on Department of Buildings Application No. 120231677, reads in pertinent part:

"Proposed Physical Culture Establishment is not permitted as of right in a C6-4 district as per ZR section 32-10 and requires a BSA Special Permit per ZR Section 73-36;" and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C6-4 zoning district, the legalization of a physical culture establishment (PCE) at the first floor and first floor mezzanine of a 32-story mixed-use commercial/residential building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 21, 2011, after due notice by publication in *The City Record*, and then to decision on July 19, 2011 and

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

WHEREAS, the subject site is located on an irregular-shaped lot bounded by Warren Street to the north, Greenwich Street to the east, Murray Street to the south, and West Street to the west, within a C6-4 zoning district; and

WHEREAS, the site is occupied by a 32-story mixed-use commercial/residential building; and

WHEREAS, the PCE will occupy 6,176 sq. ft. of floor area on the first floor and first floor mezzanine; and

WHEREAS, the PCE will be operated as Soul Cycle; and WHEREAS, the proposed hours of operation are: 5:30 a.m. to 9:30 p.m., daily; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction and aerobics; and

WHEREAS, the Board finds that this action will

MINUTES

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 January 15, 2010, 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 January 15, 2010 and the date of this grant; 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. 11BSA076M, dated March 22, 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 C6-4 zoning district, the legalization of a physical culture establishment at the first floor and first floor mezzanine of a 32-story mixed-use

commercial/residential building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 7, 2011" – 5 sheets and *on further condition*:

THAT the term of this grant shall expire on January 15, 2020;

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 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, July 19, 2011.

201-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for For Our Children, Inc., owner.

SUBJECT – Application August 1, 2008 – Variance (§72-21) to allow a one story commercial building (UG 6); contrary to use regulations (§22-00). R3X zoning district. REMISES AFFECTED – 40-38 216th Street, between 215th Place and 216th Street, 200' south of 40th Avenue, Block 6290, Lot 70, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to August 23, 2011, at 1:30 P.M., for deferred decision.

169-09-BZ

APPLICANT – Sheldon Lobel, for Saint Georges Crescent, LLC, owner.

SUBJECT – Application June 8, 2009 – Variance (§72-21) to allow a multi-family residential building, contrary to floor area (§23-145), rear yard (§23-47), height and setback (§23-633), rear setback (§23-663), minimum distance between windows and lot lines (§23-861), and maximum number of dwelling units (§23-22) regulations. R8 zoning district.

PREMISES AFFECTED – 186 Saint George's Crescent, east side of St. George's Crescent, 170' southeast of the corner formed by the intersection of Van Cortland Avenue, and Grand Concourse, Block 3312, Lot 12, Borough of Bronx.

COMMUNITY BOARD #7BX

MINUTES

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Laid over to August 23, 2011, at 1:30 P.M., for deferred decision.

230-09-BZ

APPLICANT – Peter Hirshman, for Mr. Filipp T Tortora, owner.

SUBJECT – Application July 20, 2009 – Variance (§72-21) for the construction of a three story, three family residence, contrary to front yard regulations (§23-45). R-5 zoning district.

PREMISES AFFECTED – 1700 White Plains Road, northeast corner of White Plains and Van Nest Avenue, Block 4033, Lot 31, Borough of Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Giuliano Penna.

ACTION OF THE BOARD – Laid over to September 13, 2011, at 1:30 P.M., for continued hearing.

4-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 1747 East 2nd Street, LLC, owner.

SUBJECT – Application January 10, 2011 – Variance (§72-21) to allow a three-story synagogue, contrary to lot coverage (§24-11), floor area (§113-51), wall height and total height (§113-55), front yard (§113-542), side yards (§113-543), encroachment into required setback and sky exposure plane (§113-55), and parking (§25-18, §25-31, and §113-561). R5 zoning district.

PREMISES AFFECTED – 1747-1751 East 2nd Street, aka 389 Quentin Road, northeast corner of East 2nd Street and Quentin Road, Block 6634, Lot 49, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to August 16, 2011, at 1:30 P.M., for continued hearing.

51-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Susan Sherer and Shimishon Sherer, owners.

SUBJECT – Application April 18, 2011 – Special Permit (§73-622) for the enlargement of an existing single family residence, contrary to floor area and open space (§23-141); and rear yard (§23-47) regulations. R2 zoning district.

PREMISES AFFECTED – 1226 East 26th Street, west side of 26th Street, between Avenue L and Avenue M, Block 7643, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra A. Altman.

ACTION OF THE BOARD – Laid over to August 16, 2011, at 1:30 P.M., for continued hearing.

55-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Acadia 2914 Third Avenue LLC, owner; Third Avenue Bronx Fitness Group, LLC, lessee.

SUBJECT – Application April 25, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*). C4-4 zoning district.

PREMISES AFFECTED – 2914 Third Avenue, south of East 152nd Street, Third Avenue and Bergen Avenue, Block 2362, Lot 13, Borough of Bronx.

COMMUNITY BOARD #1BX

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to August 16, 2011, at 1:30 P.M., for decision, hearing closed.

56-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. Adam Cohen, owner.

SUBJECT – Application April 25, 2011 – Variance (§72-21) for the enlargement of an existing one-family semi-detached residence, contrary to use (§ 22-11) and (§52-22); side yard (§23-461(a)) and floor area (§ 23-141). R2X zoning district.

PREMISES AFFECTED – 957 East 7th Street, East side of East 7th Street, approximately midblock between Avenue and Avenue I. Block 6510, Lot 68. Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to August 23, 2011, at 1:30 P.M., for continued hearing.

57-11-BZ

APPLICANT – Sheldon Lobel, P.C., for 208 West 125th Street Associates, LLC, owner; 208 West 125th Street Fitness Group, LLC, lessee.

SUBJECT – Application May 2, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*). C6-3/C4-4D.

PREMISES AFFECTED – 208 West 125th Street and West 124th Street, west of Adam Clayton Powell Boulevard, Block 1930, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

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

MINUTES

Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to August 16, 2011, at 1:30 P.M., for continued hearing.

59-11-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 156 South Avenue Corporation, owner; Community Health Center, lessee.

SUBJECT – Application May 5, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory diagnostic facility building. C8-1 zoning district.

PREMISES AFFECTED – 439 Port Richmond Avenue, southwest corner of Port Richmond Avenue and Homestead Avenue, Block 1048, Lot 9, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO REOPEN 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 July 26, 2011, at 1:30 P.M., for continued hearing.

Adjourned: P.M.

MINUTES

*CORRECTION

This resolution adopted on June 5, 2007, under Calendar No. 173-06-A and printed in Volume 92, Bulletin No. 22, is hereby corrected to read as follows:

173-06-A

APPLICANT – Adam Rothkrug, Esq., for Hamid Kavian, owner.

SUBJECT – Application August 11, 2006 – Proposed construction of a single family home to be located within the bed of mapped street (Hook Creek Boulevard) contrary to General City Law Section 35. R2 Zoning District.

PREMISES AFFECTED – 240-28 128th Avenue, southwest corner 128th Avenue and Hook Creek Boulevard, Block 12867, Lot 32, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Commissioner Ottley-Brown and Commissioner Hinkson.....3

Negative:.....0

Absent: Vice Chair Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated July 17, 2006, acting on Department of Buildings Application No. 402386431, which reads in pertinent part:

“Proposed building is in the bed of Mapped Street. No permit shall be issued for any building in the bed of any street mapped street, contrary to General City Law Section 35.”; and

WHEREAS, a public hearing was held on this application on June 5, 2007 after due notice by publication in the *City Record*, and then to decision on June 5, 2007; and

WHEREAS, by letter dated November 20, 2006, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated April 26, 2007, the Department of Environmental Protection (DEP) states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated November 13, 2006, the Department of Transportation (DOT) states that it has reviewed the application and has no objections; and

WHEREAS, the Board notes that by its November 13, 2006 letter, DOT did not indicate that it intends to include the applicant’s property in its ten-year capital plan; and

WHEREAS, based upon the above, the applicant has submitted adequate evidence to warrant this approval.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 17, 2006, acting on Department of Buildings Application No. 402386431, is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall

substantially conform to the drawing filed with the application marked “Received October 4, 2006”–(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, June 5, 2007.

***The resolution has been revised to correct the Block number, which read “Block 12857” now reads: “Block 12867”. Corrected in Bulletin No. 30, Vol. 96, dated July 27, 2011.**

MINUTES

*CORRECTION

This resolution adopted on July 12, 2011, under Calendar No. 19-11-BZ and printed in Volume 96, Bulletin Nos. 27-29, is hereby corrected to read as follows:

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.

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 February 7, 2011, acting on Department of Buildings Application No. 320245542, reads in pertinent part:

“Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of .50.

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space of 150.

Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required rear yard of 30 feet.

Proposed plans are contrary to ZR 23-461 in that the proposed side yard straight-line extension is less than the 5 foot minimum side yard permitted;”

and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on May 17, 2011 after due notice by publication in *The City Record*, with a continued hearing on June 14, 2011, and then to decision on July 12, 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 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of East 24th Street, between Avenue L and Avenue M, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 3,750 sq. ft., and is occupied by a single-family home with a floor area of 1,999 sq. ft. (0.53 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 1,999 sq. ft. (0.53 FAR) to 3,764 sq. ft. (1.0 FAR); the maximum permitted floor area is 1,875 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 57 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain the existing side yard along the southern lot line with a width of 4’-2½” (a minimum width of 5’-0” is required for each side yard); and

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

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, and will not impair the future use or development of the surrounding area; and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and

MINUTES

marked "Received June 1, 2011"-(11) sheets and "June 27, 2011"-(1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,764 sq. ft. (1.0 FAR); an open space ratio of 57 percent; a side yard with a minimum width of 4'-2½" along the southern lot line; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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, July 12, 2011.

***The resolution has been revised to correct the 7th WHEREAS, which read "...3740 sq. ft..." now reads: "...3,750 sq. ft..." ; and the 9th WHEREAS and the 1st condition, which read "...3,763 sq. ft. (1.01 FAR)..." now reads "...3,764sq. ft. (1.0 FAR)..." . Corrected in Bulletin No. 30, Vol. 96, dated July 27, 2011.**

*CORRECTION

This resolution adopted on July 12, 2011, under Calendar No. 34-11-BZ and printed in Volume 96, Bulletin Nos. 27-29, is hereby corrected to read as follows:

34-11-BZ

CEQR #11-BSA-074K

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.

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: John Yacavone, Fire Department.

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 8, 2011, acting on Department of Buildings Application No. 320265388, reads in pertinent part:

“ZR 32-10. Proposed physical culture establishment is not permitted in C2-4 zone and requires a special permit from the Board of Standards and Appeals per ZR 73-36;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within C2-4 (R6B) zoning district, the operation of a physical culture establishment (PCE) at the first floor of a three-story mixed-use commercial/residential building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 14, 2011, after due notice by publication in *The City Record*, and then to decision on July 12, 2011; and

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

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

WHEREAS, the subject site is located on the north side of Driggs Avenue between Leonard Street and Eckford Street, within a C2-4 (R6B) zoning district; and

WHEREAS, the site is occupied by a three-story mixed-

MINUTES

use commercial/residential building; and

WHEREAS, the PCE will occupy a total floor area of 587 sq. ft. on the first floor, with associated retail space occupying the remaining 1,625 sq. ft. of floor area on the first floor; and

WHEREAS, the PCE will be operated as Caribou Baby; and

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

WHEREAS, by letter dated June 29, 2011, the Fire Department approves of the installation of hard-wired smoke detectors in the subject PCE space and first floor retail space; and

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 11BSA074K, dated May 20, 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 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 C2-4 (R6B) zoning district, the operation of a physical culture establishment at the first floor of a three-story mixed-use commercial/residential building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 20, 2011"- (1) sheet and "Received June 28, 2011"- (2) sheets and *on further condition*:

THAT the term of this grant shall expire on July 12, 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 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, July 12, 2011.

***The resolution has been revised to correct the 11th WHEREAS and to delete the 12th WHEREAS. Corrected in Bulletin No. 30, Vol. 96, dated July 27, 2011.**