
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. 35

August 31, 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 | 550 |
| CALENDAR of September 20, 2011 | |
| Morning | 551 |
| Afternoon | 552 |

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, August 23, 2011**

Morning Calendar553

Affecting Calendar Numbers:

| | |
|------------|---|
| 887-54-BZ | 218-01 Northern Boulevard, Queens |
| 281-39-BZ | 1605 Lexington Avenue, Manhattan |
| 713-55-BZ | 181-05 Horace Harding Expressway, Queens |
| 827-55-BZ | 245-20 139 th Avenue, Queens |
| 1045-64-BZ | 300-330 East 33 rd Street, Manhattan |
| 926-86-BZ | 217-07 Northern Boulevard, Queens |
| 93-95-BZ | 149-56/58 Cross Island Parkway, Queens |
| 188-96-BZ | 444 Soundview Avenue, Bronx |
| 86-92-BZ | 15 First Street, Staten Island |
| 201-02-BZ | 6778 Hylan Boulevard, Staten Island |
| 176-10-A | 62 Brighton 2 nd Place, Brooklyn |
| 15-11-A | 860 Sixth Avenue, Manhattan |
| 40-11-A | 25 Central Park West, Manhattan |

Afternoon Calendar556

Affecting Calendar Numbers:

| | |
|-----------|--|
| 201-08-BZ | 40-38 216 th Street, Queens |
| 169-09-BZ | 186 Saint George's Crescent, Bronx |
| 128-10-BZ | 147-58 77 th Road, Queens |
| 27-11-BZ | 86-88 Franklin Street, Manhattan |
| 57-11-BZ | 208 West 125 th Street, Manhattan |
| 119-10-BZ | 787 Cornaga Avenue, Queens |
| 196-10-BZ | 234 East 53 rd Street, Manhattan |
| 227-10-BZ | 204-12 Northern Boulevard, Queens |
| 235-10-BZ | 2363 Ralph Avenue, Brooklyn |
| 1-11-BZ | 189-191 Atlantic Avenue, Brooklyn |
| 2-11-BZ | 117 Seventh Avenue South, Manhattan |
| 17-11-BZ | 2255 East 2 nd Street, Brooklyn |
| 18-11-BZ | 1025 East 22 nd Street, Brooklyn |
| 21-11-BZ | 1810 Voorhies Avenue, Brooklyn |
| 31-11-BZ | 1665 Jerome Avenue, Bronx |
| 56-11-BZ | 957 East 7 th Street, Brooklyn |
| 60-11-BZ | 1214 East 29 th Street, Brooklyn |
| 64-11-BZ | 32-28 49 th Street, Queens |
| 72-11-BZ | 101-06 Astoria Boulevard, Queens |

DOCKET

New Case Filed Up to August 23, 2011

118-11-A

811 Liberty Lane, Block 16350, Lot(s) 300, Borough of **Queens, Community Board: 14.** site and building not fronting a mapped street contrary to Art. 3 Sect. 36 GCL and Sect. 27-291 Admin. Code of the City of New York. The Building is in the bed of a mapped street contrary to Art 3 Sect 35 of the General City Law, private disposal in the bed of a mapped street contrary to Department of Buildings policy. R4 district.

119-11-A

2230-2234 Kimball Street, Kimball Street between Avenue U and Avenue V., Block 8556, Lot(s) 55, Borough of **Brooklyn, Community Board: 18.** Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under prior zoning (24-33& 25-31) . R4 zoning district . R4 district.

120-11-BZ

52-11 29th Street, corner of 29th Street and Review Avenue, Block 295, Lot(s) 1, Borough of **Queens, Community Board: 02.** Special Permit (ZR 73-44) to reduce the parking requirement for office use and catering use (parking requirement category B1). M1-3 zoning district. M103 district.

121-11-BZ

351 Convent Avenue, southeast corner of Convent Avenue and West 145th Street., Block 2050, Lot(s) 42,47, Borough of **Manhattan, Community Board: 09.** Variance application to legalize a two story and basement rear yard enlargement in an existing church (Convent Avenue Baptist Church) that exceeds the permitted height and contains two stories contrary to the permitted one story and that violates a rear yard requirements and exceeds the permitted lot coverage. R7-2 zoning district. R7-2 district.

122-11-A

5 Bement Avenue, southeast corner of the intersection of Bement Avenue and Richmond Terrace, Block 150, Lot(s) 4, Borough of **Staten Island, Community Board: 01.** Proposed construction of a one family dwelling located partially within the bed of a mapped street contrary to General City Law Section 35 and waiver of the required front yard under 72-01-(g) . R3-1 Zoning District . R3-1 district.

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

CALENDAR

SEPTEMBER 20, 2011, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 20, 2011, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

742-59-BZ

APPLICANT – Harold L. Robertson, for David B. Levy/136 E. 55th Street, Inc.

SUBJECT – Application July 14, 2011– Extension of Term for the continued operation to permit the use of no more than 50 unused and surplus tenant parking spaces within an accessory garage in a multiple dwelling building which expired on June 13, 2011. C6-6 zoning district.

PREMISES AFFECTED – 136 East 55th Street, Lexington Avenue and East 55th Street, Block 1309, Lot 50, Borough of Manhattan.

COMMUNITY BOARD #6M

92-99-BZ, 94-99-BZ, 96-99-BZ, 98-99-BZ, 100-99-BZ, 102-99-BZ

APPLICANT – Sheldon Lobel, P.C., for Walden Terrace Inc., owner.

SUBJECT – Application June 24, 2011 – Extension of Term for the Variance filed pursuant to ZR§60 (3) of the Multiple Dwelling Law for the continued use of transient parking in multi-unit residential building which expired on May 30, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on May 30, 2001 and Waiver of the Rules. R7-1 zoning district.

PREMISES AFFECTED – 98-09, 98-25, 98-41, 98-51, 98-33, 98-19, 64th Avenue, western portion of the block bounded by the 64th Avenue to the north, 64th Road to the south, 98th Street to the west and 99th Street to the east, Block 2101 & 2100, Lot 1, 16, 24, 29, 21,15, Borough of Queens.

COMMUNITY BOARD #6Q

200-00-BZ

APPLICANT – Eric Palatnik, P.C., for Blans Development Corporation, owners.

SUBJECT – Application August 25, 2011 – Extension of Time to obtain a Certificate of Occupancy of a previously granted Variance (§72-21) to operate a Physical Culture Establishment (Squash Fitness Center) which expired on June 8, 2011; Waiver of the Rules. C1-4(R6B) zoning district.

PREMISES AFFECTED – 107-24 37th Avenue, southwest corner of 37th Avenue and 108th Street, aka 37-16 108th Street, Block 1773, Lot 10, Borough of Queens.

COMMUNITY BOARD #3Q

75-06-BZ

APPLICANT – Eric Palatnik, P.C., for Cord Meyer Development Company, owner.

SUBJECT – Application April 27, 2011 – Extension of Time to complete construction of a previous approved variance (§72-21) and to amend the previous approval by increasing open space, eliminating a sub-cellar, and complying with new building code requirements. C1-2/R7-1 district.

PREMISES AFFECTED – 108-20 71st Avenue, northeast corner of Queens Boulevard and 71st Avenue, Block 2224, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEALS CALENDAR

95-11-A

APPLICANT – Gary Lenhart, for The Breezy Point Cooperative, Inc., owner.

SUBJECT – Application June 30, 2011 – Reconstruction and enlargement of a single family dwelling located within a bed of a mapped street contrary to General City Law Section 35 in an R4 district.

PREMISES AFFECTED – 385 Bayside Drive, 30' east of mapped Beach 182nd Street, Block 16340, Lot p/o 50, Borough of Queens.

COMMUNITY BOARD #14Q

100-11-A

APPLICANT – Deidre Duffy, for Breezy Point Cooperative, Incorporated, owner; John and Roseann Kennedy, lessees.

SUBJECT – Application July 7, 2011 – Proposed reconstruction of a single family home located within the bed of a mapped street contrary to General City Law Section 35. R4 Zoning District.

PREMISES AFFECTED – 157 Ocean Avenue, east side of Ocean Avenue, 74' south of Oceanside Avenue, Block 16530, Lot 400, Borough of Brooklyn.

COMMUNITY BOARD #14BK

CALENDAR

SEPTEMBER 20, 2011, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 20, 2011, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

231-10-BZ

APPLICANT – Eric Palatnik, PC, for WIEDC (Williamsburg Infant & Early Childhood Development Center), owners.

SUBJECT – Application December 17, 2010 – Variance (§72-21) to permit the development of a six-story school contrary to use regulations (§42-11) and bulk regulations; FAR (§43-122), rear yard (§43-26), wall height, total height, number of stories, setback, and sky exposure plane (§43-43). M1-1 zoning district.

PREMISES AFFECTED – 430-440 Park Avenue, Between Kent Avenue and Franklin Avenue. Block 1898, Tent. Lot 29, Borough of Brooklyn.

COMMUNITY BOARD #3BK

47-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for USA Outreach Corp., by Shaya Cohen, owner.

SUBJECT – Application April 13, 2011– Variance (§72-21) to allow a three-story yeshiva with dormitories, contrary to bulk regulations.

PREMISES AFFECTED – 1213 Bay 25th Street, west side of Bay 25th Street, between Bayswater Avenue and Healy Avenue, Block 15720, Lot 67, Borough of Queens.

COMMUNITY BOARD #14Q

94-11-BZ

APPLICANT – Victor K. Han, RA, AIA, for 149 Northern Plaza, LLC & Seungho Kim, owners. New York Spa & Sauna Corp., lessee.

SUBJECT – Application June 27, 2011– Special Permit (§73-36) to facilitate the use of a portion of a new building as a physical culture establishment (New York Spa & Sauna) in a C2-2/R6A&R5 Zoning District.

PREMISES AFFECTED – 149-06 Northern Boulevard, Southeast of Northern Boulevard, 0' Southeast of 149th, Block 5017, Lot 11, Borough of Queens.

COMMUNITY BOARD #7Q

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, AUGUST 23, 2011
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

887-54-BZ

APPLICANT – Eric Palatnik, P.C., for Napa Realty Corporation, owner.

SUBJECT – Application July 5, 2011 – Extension of Time to obtain a Certificate of Occupancy for an existing gasoline service station (*British Petroleum*) with accessory convenience store (*7-Eleven*) which expired on June 15, 2011. C2-2/R6B zoning district.

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

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Trevis Savage.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative:.....0

Absent: Commissioner Montanez.....1

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy for an automobile service station, which expired on June 15, 2011; and

WHEREAS, a public hearing was held on this application on July 26, 2011 after due notice by publication in *The City Record*, and then to decision on August 23, 2011; and

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

WHEREAS, the site is located on the north side of Northern Boulevard between 218th Street and 219th Street, within a C2-2 (R6B) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 3, 1955 when, under the subject calendar number, the Board granted a variance to permit the premises to be occupied by an automobile showroom with supplementary servicing, including gasoline dispensing service, for a term of 15 years; and

WHEREAS, on March 18, 1958, the Board granted an amendment to permit the construction of a gasoline service

station, lubricatorium, minor auto repairs, car washing, office, sales, and storage and parking of motor vehicles; and

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

WHEREAS, most recently, on June 15, 2010, the Board extended the term of the grant for an additional ten years, and legalized certain modifications to the previously approved plans; a condition of the grant was that a new certificate of occupancy be obtained by June 15, 2011; and

WHEREAS, the applicant now requests a further extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant states that it has not obtained a new certificate of occupancy due to unexpected delays in the filing and approval process at the Department of Buildings (“DOB”) as the result of two open applications which were filed at DOB by the tenant of the site; and

WHEREAS, the applicant represents that it will take approximately two years to secure the necessary sign-offs and obtain a new certificate of occupancy for the site; and

WHEREAS, based upon the above, the Board finds that the requested extension of term and amendment are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated May 3, 1955, so that as amended this portion of the resolution shall read: “to extend the time to obtain a certificate of occupancy for two years from the date of this grant, to expire on August 23, 2013; *on condition* that all use and operations shall substantially comply with the BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a new certificate of occupancy shall be obtained by August 23, 2013;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 420126679)

Adopted by the Board of Standards and Appeals August 23, 2011.

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 variance permitting the operation of an automotive service station (UG 16B) with accessory uses which expired on May 18, 2009; Waiver of the Rules. C1/R7-2 zoning district.

MINUTES

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

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Trevis Savage.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 10 A.M., for continued hearing.

713-55-BZ

APPLICANT – Walter T. Gorman, P.E., for East River Petroleum Realty LLC, owner; Brendan Utopia Mobil, lessee.

SUBJECT – Application May 3, 2011 – Extension of Term (§11-411) of a variance for the continued operation of a gasoline service station (*Mobil*) which expired on December 11, 2011. C2-2/R3-1 zoning district.

PREMISES AFFECTED – 181-05 Horace Harding Expressway, north side block front between Utopia and 182nd Street, Block 7065, Lot 8, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to September 27, 2011, at 10 A.M., for decision, hearing closed.

827-55-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products, Incorporated, owner.

SUBJECT – Application October 5, 2010 – Extension of Term (§11-411) for the continued operation of a Gasoline Service Station (*British Petroleum*) which expires on January 31, 2011. R3-2 zoning district.

PREMISES AFFECTED – 245-20 139th Avenue, southwest corner of Conduit Avenue, Block 13614, Lot 23, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Trevis Savage.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to September 20, 2011, at 10 A.M., for decision, hearing closed.

1045-64-BZ

APPLICANT – Hal Dorfman, R.A., for Kips Bay Tower Associates, owner.

SUBJECT – Application June 10, 2011 – Extension of Term permitting 120 tenant parking spaces, within an accessory garage, for transient parking, pursuant to §60(1)(b) of the Multiple Dwelling Law (MDL), which expired on June 21, 2011. R8 zoning district.

PREMISES AFFECTED – 300-330 East 33rd Street, Northwest corner of East 33rd Street and First Avenue. Block 936, Lot 7501. Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to September 13, 2011, at 10 A.M., for postponed hearing.

926-86-BZ

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

SUBJECT – Application November 1, 2010 – Extension of Term of a variance for 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; Waiver of the Rules. 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

APPEARANCES –

For Applicant: Carly Bradley.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 10 A.M., for continued hearing.

93-95-BZ

APPLICANT – Akerman Senterfeit, for 149-58 Realty Company, owner.

SUBJECT – Application April 18, 2011 – Extension of Term of a Variance (§72-21) for the continued operation of a (UG 6a) eating and drinking establishment and (UG 9) catering establishment which expired on June 10, 2007 and waiver of the rules. R3A zoning district.

PREMISES AFFECTED – 149-56/58 Cross Island Parkway, between 149th and 150th Streets, Block 4662, Lot 36 & 38, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Jessica Loeser.

For Opposition: Steven Gjorgjoski.

ACTION OF THE BOARD – Laid over to September 20, 2011, at 10 A.M., for continued hearing.

MINUTES

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 – Extension of Term (§11-411) of a 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

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 10 A.M., for adjourned hearing.

86-92-BZ

APPLICANT – Randy M. Gulkis, DDS, owner.

SUBJECT – Application April 29, 2011 – Extension of Term of a Variance (§72-21) for the continued operation of a UG6B dental office which expired on June 11, 2011. R3X zoning district.

PREMISES AFFECTED – 15 First Street, a triangle formed by First Street to the east, Richmond to west and Rose Street to the south, Block 4190, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Randy M. Gulkis and A. Zimbler.

ACTION OF THE BOARD – Laid over to September 20, 2011, at 10 A.M., for continued hearing.

201-02-BZ

APPLICANT – Eric Palatnik, P.C., for Papa Page, LLC, owner.

SUBJECT – Application July 20, 2011 – Extension of Time to Complete Construction of a Variance (§72-21) for the construction of a new automotive service station with accessory convenience store which expired on May 22, 2011 and a waiver of the rules. C1-1/R3X (SRD) zoning district. PREMISES AFFECTED – 6778 Hylan Boulevard, between Page Avenue and Culotta. Block 7734, Lot 13 & 20, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Trevis Savage.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0
Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to September 20, 2011, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

176-10-A

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

SUBJECT – Application September 8, 2010 – Proposed construction of a residential building not fronting a mapped street, contrary to General City Law Section 36. R6 zoning District.

PREMISES AFFECTED – 62 Brighton 2nd Place, east side, Block 8662, Lot 155, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Carly Bradley.

For Administration: Anthony Scaduto, Fire Department.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 10 A.M., for continued hearing.

15-11-A

APPLICANT – Slater & Beckerman, LLP., for 1239 Operating Corporation, owner.

SUBJECT – Application February 10, 2011 – Appeal challenging the Department of Building's determination that a non-illuminated advertising sign and structure is not a legal non-conforming advertising sign pursuant to ZR §52-00. C6 zoning district.

PREMISES AFFECTED – 860 Sixth Avenue, through lot on the north side of West 30th Street, between Broadway and Avenue of the Americas, Block 832, Lot 1. Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Stuart Beckerman.

For Opposition: Amanda Derr, Buildings Department.

ACTION OF THE BOARD – Laid over to October 18, 2011, at 10 A.M., for continued hearing.

40-11-A

APPLICANT – Bryan Cave LLP, Margery Perlmutter, Esq., for CPW Retail, LLC c/o American Continental Properties, LLC, owner.

SUBJECT – Application April 8, 2011 – Appeal challenging the Department of Building's determination that non-conforming commercial use was discontinued pursuant to ZR §52-61. R10A & C4-7 LSD Zoning district.

PREMISES AFFECTED – 25 Central Park West, West 62nd and West 63rd Streets, Block 1115, Lot 7501(2) Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Margery Perlmutter.

For Opposition: Lisa M. Orrantia, Buildings Department and Paul Selver.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 10 A.M., for continued hearing.

MINUTES

Jeff Mulligan, Executive Director

Adjourned: P.M.

**REGULAR MEETING
TUESDAY AFTERNOON, AUGUST 23, 2011
1:30 P.M.**

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

ZONING CALENDAR

201-08-BZ

CEQR #09-BSA-014Q

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 –

For Applicant: Trevis Savage.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative:.....0

Absent: Commissioner Montanez.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated July 22, 2009, acting on Department of Buildings Application No. 410019812, reads in pertinent part:

1. The proposed use of Offices (Use Group #6) in an R3X District is contrary to Section 22-00 of the Zoning Resolution.
2. There are no bulk or parking regulations for commercial uses in an R3X District;" and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3X zoning district, the construction of a one-story commercial office building (Use Group 6) which does not conform to district use regulations, contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on December 19, 2008 after due notice by publication in *The City Record*, with continued hearings on March 17, 2009, April 21, 2009, June 9, 2009, March 8, 2011, and June 7, 2011, and then to decision on August 23, 2011; and

WHEREAS, the site and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-Chair

Collins, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 11, Queens, recommends disapproval of this application; and

WHEREAS, New York City Council Member Daniel J. Halloran and Queens Borough President Helen Marshall recommend disapproval of this application; and

WHEREAS, New York State Senator Tony Avella provided oral and written testimony in opposition to this application; and

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

WHEREAS, collectively, the parties who provided testimony in opposition to the proposal are the "Opposition;" and

WHEREAS, specifically, the Opposition raised the following primary concerns: (1) the proposal will result in the expansion of the adjacent business, which has a negative impact on the surrounding residential uses; and (2) a conforming residential development is feasible on the site; and

WHEREAS, the subject site is located on an irregular-shaped lot bounded by 215th Place to the west, 216th Street to the east, and the tracks for the Long Island Rail Road ("LIRR") to the south, within an R3X zoning district; and

WHEREAS, the site has approximately 107 feet of frontage on 216th Street and 93 feet of frontage on Spruce Street, a width of approximately 181 feet, and a total lot area of 18,564 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a one-story commercial office building with a total floor area of 3,395 sq. ft. (0.18 FAR), a partial cellar for use as storage, and 18 accessory parking spaces; and

WHEREAS, the applicant notes that the adjacent parcel to the north was the subject of a previous variance granted by the Board under BSA Cal. No. 137-85-A, which allowed the change of use of the adjacent site to the current contractor's establishment (Use Group 16); and

WHEREAS, the applicant further notes that the owner of the subject site also operates the adjacent contractor's establishment, which is operated as Lund Fire Products ("Lund"); and

WHEREAS, the applicant notes that Lund currently operates three related business operations out of the adjacent contractor's establishment: (1) fire systems installation, consisting of the planning and installation of fire suppression equipment in new and existing buildings; (2) a portable fire extinguisher business, which provides and services portable fire extinguishers; and (3) a fire alarm business, which designs, installs and services fire alarm systems; and

WHEREAS, the applicant initially proposed to construct a one-story, 7,133 sq. ft. (0.38 FAR) warehouse building (Use Group 16) with 12 accessory parking spaces, to be used by the adjacent contractor's establishment for storage and parking in connection with the existing business; and

WHEREAS, specifically, the applicant proposed to relocate Lund's entire fire systems installation portion of the business from the adjacent contractor's establishment to the

MINUTES

proposed new building, which consists of the operation of six to eight trucks and the storage of a variety of equipment and material required in connection with the fire protection installation service, as well as the storage of related files and plans; and

WHEREAS, during the course of the hearing process and in response to concerns raised by the Board and the Opposition, the applicant provided an interim proposal consisting of a one-story commercial building limited to Use Group 6 office use, with a floor area of 6,790 sq. ft. (0.37 FAR) and with 12 accessory off-street parking spaces; the applicant submitted a second interim proposal which maintained the proposed 6,790 sq. ft. commercial office building but provided an additional 19 accessory parking spaces (31 total spaces) within the bed of the mapped but unbuilt 41st Avenue; and

WHEREAS, in response to additional concerns raised by the Board regarding the size of the proposed building and the number of parking spaces, the applicant submitted revised plans reflecting the current proposal for a one-story commercial office building (Use Group 6) with a floor area of 3,395 sq. ft. (0.18 FAR) and 18 accessory parking spaces; and

WHEREAS, because commercial use is not permitted in the subject R3X zoning district, the applicant seeks a use variance to permit the proposed Use Group 6 use; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site with a complying development: (1) the site is an irregularly shaped lot; (2) the northern portion of the lot is a mapped but unbuilt portion of 41st Avenue which is encumbered by an existing easement in favor of the Department of Environmental Protection ("DEP"); and (4) the site abuts LIRR tracks; and

WHEREAS, as to the site's irregular shape, the applicant states that the depth of the site tapers from a maximum depth of approximately 107 feet along the western lot line to 93 feet along the eastern lot line; and

WHEREAS, as to the existence of the mapped street and easement, the applicant states that a 45-ft. wide mapped but unbuilt portion of 41st Avenue is located on the northern portion of the site, for the entire length of the lot, and that an existing 30-ft. wide easement in favor of DEP is located within the bed of the mapped but unbuilt 41st Avenue; and

WHEREAS, the applicant represents that due to the presence of the mapped street and easement, approximately half of the lot area cannot be developed as-of-right without an application to the Board under the General City Law to permit construction on the northern portion of the site; and

WHEREAS, the applicant further represents that an application to permit construction in the bed of the mapped street under the General City Law is not feasible due to the existence of the DEP easement; and

WHEREAS, the applicant states that the remaining portion of the lot that can be developed as-of-right is constrained by the irregular shape of the lot, as the southern boundary which abuts the LIRR tracks tapers from east to west, further limiting development of the western portion of the site; and

WHEREAS, the applicant states that the DEP easement

forces the development to be located up against the LIRR tracks and would result in underdeveloped yards for a conforming development; and

WHEREAS, the applicant states that, due to the aforementioned unique site conditions, as-of-right development of the site would be limited to five detached two-story homes located between the existing commercial building to the north and the LIRR tracks to the south, with depths ranging between 8.25 feet and 24.41 feet, and floor areas between 492 sq. ft. and 1,236 sq. ft.; and

WHEREAS, in addition to the shape of the site, the applicant states that the site is also encumbered by its location immediately north of active LIRR tracks and west of a railroad power substation; and

WHEREAS, the applicant represents that the railroad presence inhibits as-of-right development due to the decrease in desirability of any potential residential development and limitations on the arrangement of possible development; and

WHEREAS, specifically, the applicant states that the existence of the mapped street and DEP easement on the northern portion of the site shifts any as-of-right development to the south of the site, closer to the LIRR tracks, and the shallow depth and irregular shape of the site does not afford the possibility of providing large rear yards that could minimize the impact of the daily train traffic; and

WHEREAS, the applicant further states that the railroad tracks abutting the site are located at grade, which increases their impact; and

WHEREAS, the applicant submitted a photographic survey of lots abutting the LIRR tracks between the Clearview Expressway and the Cross Island Parkway, which reflects that the vast majority of such lots are located either significantly above or below the grade of the railroad tracks, and that the few lots that are at grade with the railroad tracks contain non-residential uses; and

WHEREAS, the applicant also submitted a noise study as evidence of the excessive noise levels created by the adjacent railroad tracks; and

WHEREAS, the applicant notes that the lots to the west of the site, which were developed with four residential buildings abutting the LIRR tracks, were constructed under the prior R3-2 zoning district and were able to orient the homes away from the LIRR tracks, which the applicant is unable to do because of the location of the mapped but unbuilt 41st Avenue and the DEP easement; and

WHEREAS, the applicant submitted a letter from a real estate broker stating that residential development of the site would not be financially feasible due to the unique site conditions; and

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

WHEREAS, the applicant submitted a feasibility study which analyzed: (1) an as-of-right residential development, consisting of five detached single-family homes; (2) the originally proposed one-story 7,133 sq. ft. warehouse building

MINUTES

with 12 accessory parking spaces; and (3) a one-story 6,790 sq. ft. commercial office building with 12 accessory parking spaces; and

WHEREAS, the study concluded that the conforming scenario would not result in a reasonable return, but that the Use Group 16 warehouse scenario and Use Group 6 office building scenario would realize a reasonable return; and

WHEREAS, at the Board's request, the applicant revised its plans to reflect the current proposal for a one-story 3,395 sq. ft. commercial office building with 18 accessory parking spaces, which the applicant represents will also realize a reasonable return; and

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

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

WHEREAS, the applicant represents that the surrounding area is occupied by a mix of residential, commercial, and transportation-related uses; and

WHEREAS, the applicant submitted a 400-ft. radius diagram reflecting that immediately to the south of the site are LIRR tracks, and south of the tracks are a garage, schools, a cemetery, a post office, and residential buildings; and

WHEREAS, the radius diagram submitted by the applicant also reflects that immediately to the east of the site are a railroad power substation and large railroad yard used for storage by the LIRR, and immediately to the north of the site is a Use Group 16 contractor's establishment; and

WHEREAS, accordingly, the applicant states that the subject site is largely isolated from the existing residential uses in the surrounding area; and

WHEREAS, the applicant further states that the residential uses in the vicinity of the site are a mix of attached and detached homes ranging from two to three stories, and that the bulk of the proposed one-story office building fits within the character of the surrounding neighborhood; and

WHEREAS, at hearing, the Opposition testified that the existing contractor's establishment is not compatible with the surrounding community because: (1) trucks use the residential streets for deliveries during the day and late at night; (2) garbage is picked up from the site very early in the morning or late at night; (3) employees' vehicles block residential driveways; and (4) operation of the site results in increased congestion on the surrounding residential streets; and

WHEREAS, based on these concerns, the Opposition contended that the originally proposed Use Group 16 warehouse building would result in an expansion of the adjacent contractor's establishment business; and

WHEREAS, accordingly, the Board directed the applicant to revise its proposal to eliminate the proposed Use Group 16 warehouse use from the site; and

WHEREAS, in response, the applicant submitted revised

plans reflecting a one-story commercial office building with a floor area of 6,790 sq. ft. and with 12 accessory parking spaces; and

WHEREAS, at hearing, the Board raised concerns that the revised proposal did not provide adequate off-street parking to alleviate the current shortage of off-street parking and that the size of the proposed office building was excessive; and

WHEREAS, in response, the applicant submitted revised plans which reduced the size of the proposed Use Group 6 office building to 3,395 sq. ft. (0.18 FAR), and which increased the number of accessory off-street parking spaces to 18; and

WHEREAS, the applicant states that the proposed building will be occupied by employees of Lund, but that no expansion of the existing business is proposed, and use of the building will be limited to Use Group 6B office use; and

WHEREAS, the applicant further states that the proposed building will provide additional space to alleviate the cramped conditions of the adjacent contractor's establishment and will provide additional parking spaces to alleviate the current shortage of off-street parking; and

WHEREAS, at hearing, the Board directed the applicant to install gates to secure the site after business hours, and to provide landscaping throughout the site and street trees along the 215th Place and 216th Street frontages; and

WHEREAS, in response, the applicant submitted revised plans reflecting the installation of gates with a width of 24 feet at both the 215th Place and 216th Street frontages, which will be locked after business hours, and the addition of landscaping and street trees; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the site's unique physical conditions; and

WHEREAS, as noted above, the applicant originally proposed to construct a one-story, 7,133 sq. ft. (0.38 FAR) warehouse building (Use Group 16) with 12 accessory parking spaces, to be used by the adjacent contractor's establishment for the relocation of the fire system installation portion of the business; and

WHEREAS, during the course of the hearing process the applicant revised its plans on multiple occasions in response to concerns raised by the Board, ultimately submitting the current proposal for a one-story commercial office building (Use Group 6) with a floor area of 3,395 sq. ft. (0.18 FAR) and 18 accessory parking spaces; and

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

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

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

WHEREAS, the Board has conducted an environmental

MINUTES

review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) 09BSA014Q dated November 8, 2010; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R3X zoning district, the construction of a one-story commercial office building (Use Group 6) which does not conform to district use regulations, contrary to ZR § 22-00; *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 August 18, 2011" – nine (9) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a total floor area of 3,395 sq. ft. (0.18 FAR), and 18 accessory parking spaces, as indicated on the BSA-approved plans;

THAT use of the site shall be limited to Use Group 6B offices associated with the operation of Lund Fire Products;

THAT any change in the operator of the building shall require the prior approval of the Board;

THAT the hours of operation shall be limited to Monday through Friday, from 7:00 a.m. to 7:00 p.m.;

THAT the site shall be secured after business hours;

THAT there shall be no signage permitted on the site;

THAT all exterior lighting shall be directed downward and away from adjacent residential uses;

THAT landscaping shall be provided in accordance with the BSA-approved plans, and evergreen shrubs with a height of four feet shall be provided in each of the planting beds;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of

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

Adopted by the Board of Standards and Appeals, August 23, 2011.

169-09-BZ

CEQR #09-BSA-109X

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

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 and Commissioner Hinkson.....4

Negative:.....0

Absent: Commissioner Montanez.....1

THE RESOLUTION –

WHEREAS, decision of the Bronx Borough Commissioner, dated June 30, 2011 acting on Department of Buildings Application No. 210062215, reads in pertinent part:

Proposed floor area exceeds the maximum floor area permitted per ZR 23-145;

Proposed rear yard is less than required per ZR 23-47;

Proposed street wall setback of 10’ is less than required per ZR 23-633;

Proposed setback from rear yard line is less than required per ZR 23-663;

Proposed distance between legally required window and side lot line is less than proposed per ZR 23-861; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R8 zoning district, a proposed ten-story residential building with 56 dwelling units, which does not comply with the underlying zoning regulations regarding the maximum permitted floor area ratio (“FAR”), minimum rear yard depth, minimum street wall setback, minimum rear yard line setback, and minimum distance between legally required windows and side lot lines, contrary to ZR §§ 23-145, 23-47, 23-633, 23-663 and 23-861; and

WHEREAS, a public hearing was held on this application on March 29, 2011, after due notice by publication in the *City Record*, with continued hearings on May 17, 2011 and June 21, 2011, and then to decision on August 23, 2011;

MINUTES

and

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

WHEREAS, Community Board 7, Bronx, recommends disapproval of the original iteration of this application, citing concerns with the height of the proposed building, the excessive number of waivers requested by the applicant, the possible negative impact of the proposed building with the future development of the lot to the north of the site, and the quality of life impact of the building on the surrounding neighborhood; and

WHEREAS, Bronx Borough President Ruben Diaz, Jr. recommends disapproval of the original iteration of this application, citing concerns with the impact of the building on the light and air of the surrounding residential buildings, the excessive number of waivers requested by the applicant, and the impact on the future development of the lot to the north of the site; and

WHEREAS, the subject site is an irregular-shaped lot located on the east side of St. George's Crescent, between East 206th Street and East Van Cortland Avenue, within an R8 zoning district; and

WHEREAS, the site has 71 feet of frontage along St. George's Crescent, varying lot depths ranging from 39'-11" to 117'-6", and a total lot area of 7,016 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a ten-story 56-unit residential building with the following non-complying parameters: a floor area of 46,750 sq. ft. (6.66 FAR) (the maximum permitted floor area is 42,236 sq. ft. (6.02 FAR)); no rear yard along a portion of the northern rear lot line (a rear yard with a minimum depth of 30'-0" is required); a front setback of 10'-0" above the base height of 77'-0" (a minimum front setback of 15'-0" is required above the maximum base height of 80'-0"); no setback along the northern rear lot line (a minimum rear yard line setback of 10'-0" is required above the maximum base height of 80'-0"); and a distance of 20'-4" between the windows located along the southeast side of the building and the southeastern lot line (a minimum distance of 30'-0" is required between any legally required window and a rear or side lot line); and

WHEREAS, the applicant initially proposed to construct an 11-story building with 68 dwelling units, 52,897 sq. ft. of floor area (7.54 FAR), a base height of 105'-0", and no front setback, which required additional waivers related to the maximum number of dwelling units and the maximum base height for the building; and

WHEREAS, at the direction of the Board, the applicant submitted revised plans reflecting the current proposal, which reduces the height of the building, eliminates the requested waivers related to the maximum number of dwelling units and the maximum base height, and reduces the degree of non-compliance related to FAR and the front setback; 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 an unnecessary hardship in developing the site in compliance with applicable zoning district regulations: (1) the irregular lot configuration and its shallow depth; (2) the significant elevation differences on the site; and (3) the soil conditions on the site; and

WHEREAS, as to the irregular lot configuration, the applicant states that the site is oddly shaped and extremely shallow in the portion of the lot that is most appropriate for development; and

WHEREAS, specifically, the applicant states that the site has varying lot depths ranging from 39'-11" along the western side lot line, approximately 75'-0" in the center of the property, and 117'-6" along the southeastern side lot line; and

WHEREAS, the applicant further states that the majority of the lot has a depth of less than 70'-0", but the site does not qualify for rear yard relief for shallow lots pursuant to ZR § 23-52 because the site has a maximum depth of 117'-6"; and

WHEREAS, the applicant states that a narrow triangular portion of the site is formed by the intersection of the southern rear lot line and the southeastern side lot line, and results in this portion of the site being practically unusable; and

WHEREAS, the applicant further states that the site's location on the curved portion of St. George's Crescent and the presence of a total of five side and rear lot lines which intersect at irregular angles further contributes to the irregular shape of the lot; and

WHEREAS, specifically, the applicant states that the 30'-0" rear yard required along both the northern rear lot line and the southern rear lot line reduces the lot's buildable area by over one-half, as a building footprint of only 3,160 sq. ft. could be constructed out of the total lot area of 7,016 sq. ft. due to the application of the rear yard requirements to the lot's unusual configuration; and

WHEREAS, the applicant states that the required front setback and rear yard setback would necessitate the placement of the circulation core in the middle of the building's floor plate to enable these elements to access all floors; and

WHEREAS, the applicant represents that the placement of the core in the center of such a small and irregularly shaped floor plate creates oddly shaped and inefficient apartments; and

WHEREAS, the applicant states that due to the constraints of the irregular lot configuration, an as-of-right building could only have an FAR of 4.22, far less than the maximum permitted FAR of 6.02; and

WHEREAS, therefore, the applicant states that the application of the rear yard and setback limitations to the lot's irregular configuration prevents the utilization of all permissible floor area and creates floor layouts that are inefficient and poorly arranged; and

WHEREAS, as to the site's steep slope, the applicant states that the site is also burdened by significant elevation differences between the front portion of the lot along St. George's Crescent and the rear of the property; and

WHEREAS, the applicant submitted a survey which reflects that there are significant elevation differences throughout the site, including an elevation difference of 24'-11" in the center of the property, which is the portion of the site

MINUTES

most suited to development based on the site's irregular lot configuration; and

WHEREAS, the applicant represents that development of the site is further complicated by the presence of sandy soils throughout the lot; and

WHEREAS, specifically, the applicant submitted a geotechnical report stating that two soil borings were taken, which reflect that the soil on the site consists mostly of sandy soils that are underlain by weak boulders and rock; and

WHEREAS, the geotechnical report indicates that the soil at the site has an 8-65 classification with a load bearing capacity of two to four tons per sq. ft., which will not support the weight of either the as-of-right or proposed buildings; and

WHEREAS, the applicant states that the poor load bearing capacity of the site's soils combined with its steep slope (and sloping bedrock) require the excavation of approximately 5,087 bank cubic yards of soil and 1,272 bank cubic yards of rock from the site to reach competent bedrock; and

WHEREAS, the applicant further states that approximately 7,631 linear cubic yards of soil and 1,908 linear cubic yards of rock must be hauled from the site, and that all soil must be transported to an off-site disposal location due to the site's small size; any backfill material will have to be purchased from other sites since the transporting and handling costs of bringing the excavated soil back to this site are too high; and

WHEREAS, the applicant states that extensive concrete foundation columns are required to support any building on the site, due to the sloping conditions; and

WHEREAS, the applicant submitted a cost analysis which indicates that the total increased development costs associated with the steep slope and poor soil conditions on the site are an estimated \$910,400 for an as-of-right building and \$941,990 for the proposed building; and

WHEREAS, the applicant represents that the waivers are required to accommodate sufficient floor area to overcome the premium construction costs while maintaining a building with a bulk that is compatible with neighborhood character; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study which analyzed the following scenarios: (1) an 11-story (4.22 FAR) as-of-right residential building, without special costs; (2) an 11-story (4.22 FAR) as-of-right residential building, with special costs; (3) a nine-story (6.02 FAR) lesser variance scenario that does not require an FAR waiver; and (4) the proposed ten-story (6.66 FAR) residential building; and

WHEREAS, the study concluded that only the proposed building would generate a reasonable return; and

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

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

WHEREAS, the applicant states that the surrounding area is characterized by residential buildings of varying heights; and

WHEREAS, specifically, the applicant submitted a 400-ft. radius diagram reflecting that the surrounding area is improved with a number of six- and seven-story residential buildings, most of which are significantly underbuilt; and

WHEREAS, the radius diagram submitted by the applicant also reflects that a 12-story residential building is located to the west of the site on Grand Concourse; and

WHEREAS, the applicant notes that the base height and total height of the proposed building comply with the underlying R8 district regulations; and

WHEREAS, the applicant submitted a survey that identified the height, floor area and FAR of buildings located within the vicinity of the site, which shows that most of the buildings in the surrounding area are underbuilt and while most have a smaller FAR than what is proposed, the existing floor area of the majority of the buildings surveyed exceeds the floor area for the proposed building; and

WHEREAS, the applicant notes that the additional floor area requested for the proposed building only exceeds the permitted maximum floor area and FAR by ten percent; and

WHEREAS, the applicant states that the requested rear yard waiver will not alter the essential character of the neighborhood because the other residential buildings on the subject block do not provide significant rear yards on their sites either; and

WHEREAS, the applicant further states that the amount of open space provided by the proposed building (31 percent of the lot area) is similar to or exceeds the open space provided for other residential buildings on the subject block; and

WHEREAS, specifically, the applicant states that a 30'-0" by 40'-0" courtyard is provided in the northeast corner of the lot; and

WHEREAS, the applicant notes that the portion of the building built to the northern rear lot line abuts the undeveloped portion of the gasoline service station property located to the north of the site; and

WHEREAS, the applicant represents that this adjoining lot will likely remain undeveloped due to its history of use as a gasoline service station and because a Metropolitan Transit Authority subway tunnel runs directly beneath it; and

WHEREAS, in response to the concerns raised by the Community Board and Borough President regarding the height of the building, its impact on the light and air of adjacent residential buildings, and the excessive number or waivers requested for the originally proposed building, the Board notes that the applicant submitted revised plans which reduced the height of the building to such that it complies with R8 district requirements, reduced the floor area of the building by over 6,000 sq. ft., provided a front setback of ten feet, and reduced the number of dwelling units to 56, thereby eliminating the waiver related to the maximum number of dwelling units; and

MINUTES

WHEREAS, as to the Community Board and Borough President's concerns regarding the impact of the proposed building on the future development of the lot to the north of the site, the Board notes that the size and configuration of the proposed building was determined to be necessary to address the unique physical conditions on the site that create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, at hearing, the Board questioned whether the height of the proposed building could be further reduced by reducing the 10'-6" floor-to-floor heights on the proposed building's eighth and tenth floors; and

WHEREAS, in response, the applicant submitted a letter from the architect stating that the increased floor-to-floor heights are necessary to accommodate the required offsets for the building's electrical, mechanical, plumbing and roof drainage systems due to the difference in apartment layouts created by the ninth floor setback; 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 be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the unique physical characteristics of the site; and

WHEREAS, as noted above, the applicant initially proposed to construct an 11-story building with 68 dwelling units, 52,897 sq. ft. of floor area (7.54 FAR), a base height of 105'-0", and no front setback, which required additional waivers related to the maximum number of dwelling units and the maximum base height for the building; and

WHEREAS, at the direction of the Board, the applicant submitted revised plans reflecting the current proposal, which reduces the height of the building, eliminates the requested waivers related to the maximum number of dwelling units and the maximum base height, and reduces the degree of non-compliance related to FAR and the front setback; and

WHEREAS, accordingly, the Board finds that the current 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 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 (EAS) 09BSA109X, dated May 6, 2009; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials;

Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the New York City Landmarks Preservation Commission (LPC) reviewed the project for potential archaeological impacts and requested that an archaeological documentary study be submitted for review and approval; and

WHEREAS, LPC accepted the October 2009 archaeological documentary study and concurs with its recommendation to conduct field testing on the site; and

WHEREAS, a Restrictive Declaration was executed on August 2, 2011 and filed for recording on August 11, 2011; 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, on a site within an R8 zoning district, a proposed ten-story residential building with 56 dwelling units, which does not comply with the underlying zoning regulations regarding the maximum permitted FAR, minimum rear yard depth, minimum street wall setback, minimum rear yard line setback, and minimum distance between legally required windows and side lot lines, contrary to ZR §§ 23-145, 23-47, 23-633, 23-663 and 23-861; *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"- seventeen (17) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 46,750 sq. ft. (6.66 FAR); a base height of 77'-0"; a total height of 96'-10"; no rear yard along a portion of the northern rear lot line; a minimum front setback of 10'-0" above the base height of 77'-0"; no setback along the northern rear lot line; a minimum distance of 20'-4" between the windows located along the southeast side of the building and the southeastern lot line; and 56 dwelling units, as illustrated on the BSA-approved plans;

THAT prior to the issuance of any building permit that would result in grading, excavation, foundation, alteration, building or other permit respecting the subject site which permits soil disturbance for the proposed project, the applicant or successor shall obtain from LPC a Notice to Proceed; and

THAT prior to the issuance by DOB of a temporary or permanent Certificate of Occupancy, the applicant or successor shall obtain from LPC a Notice of Satisfaction;

THAT this approval is limited to the relief granted by the

MINUTES

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 be completed 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, August 23, 2011.

128-10-BZ

CEQR #11-BSA-004Q

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: Trevis Savage.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative:.....0

Absent: Commissioner Montanez.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Superintendent, dated March 9, 2011, acting on Department of Buildings Application No. 420161247 reads, in pertinent part:

Proposed lot coverage is contrary to ZR 24-11.

Proposed three story building is contrary to ZR 24-521 and does not comply with total height, setback and sky exposure plane pursuant to ZR 24-521.

Proposed front yard is contrary to ZR 24-34.

Proposed side yards are contrary to ZR 24-35.

Non-compliance with the required side setback as per ZR 24-551.

Parking does not comply with 25-31 ZR.

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an R4 zoning district, the construction of a three-story building to be occupied by a synagogue (Use Group 4), religious school, and Rabbi's apartment which does not comply with the underlying zoning

district regulations for lot coverage, height and setback, front yard, side yards, side setback, and parking for community facilities, contrary to ZR §§ 24-11, 24-521, 24-34 and 24-35, 24-551 and 25-31; 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 29, 2011, June 14, 2011 and July 26, 2010, and then to decision on August 23, 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 8, Queens, recommends approval of the application, with the condition that the congregation posts signage prohibiting parking in the rear of the building that would block access to the community driveway by nearby residents; and

WHEREAS, City Council Member James F. Gennaro recommends approval of this application; and

WHEREAS, a representative of the Congress of the Bukharian Jews of the USA and Canada provided written testimony in support of this application; and

WHEREAS, this application is being brought on behalf of the Jewish Center of Kew Gardens Hills, Inc. (the "Jewish Center"), a non-profit religious entity; and

WHEREAS, the subject site is located on the southwest corner of 77th Road and 150th Street, within an R4 zoning district; and

WHEREAS, the subject lot has a width of 40 feet, a depth of 100 feet, and a lot area of 4,000 sq. ft.; and

WHEREAS, the subject site is currently occupied by a two-story residential building, which is proposed to be demolished; and

WHEREAS, the applicant proposes to construct a three-story building with the following parameters: a floor area of 7,998 sq. ft. (1.99 FAR); lot coverage of 71 percent (the maximum permitted lot coverage is 60 percent); a total height of 40'-6" (the maximum permitted total height is 35'-0"); a front yard with a depth of 10'-0" along the northern lot line and no front yard along the eastern lot line (a front yard with a minimum depth of 15'-0" is required); a side yard with a width of 8'-0" along the southern lot line and a side yard with a width of 5'-0" along the western lot line (two side yards with minimum depths of 8'-0" each are required); encroachment into the sky exposure plane; and no parking spaces (a minimum of 12 parking spaces are required); and

WHEREAS, the applicant originally proposed to construct a three-story building with a floor area of 9,238 sq. ft. (2.30 FAR) and a total height of 44'-0"; the original proposal would have required an additional waiver for floor area, which exceeded the maximum permitted floor area of 8,000 sq. ft. (2.0 FAR); and

WHEREAS, during the course of the hearing process, the applicant submitted a revised proposal which reduced the floor

MINUTES

area of the building to 8,838 sq. ft. (2.20 FAR) and reduced the height of the building to 40'-6"; and

WHEREAS, in response to further concerns raised by the Board regarding the size of the proposed building, the applicant submitted revised plans reflecting the current proposal with a floor area of 7,998 sq. ft. (1.99 FAR), thereby eliminating the need for a floor area waiver; and

WHEREAS, the proposal provides for the following uses: (1) a multipurpose area and lobby at the cellar level; (2) a worship area and lobby at the first floor; (3) a worship balcony at the first floor mezzanine; (4) classrooms and offices at the second floor; and (5) a Rabbi's apartment at the third floor; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to accommodate the congregation of approximately 166 families and allow for future growth; (2) to provide classroom space for religious study; and (3) to provide a residence for the synagogue's Rabbi; and

WHEREAS, the applicant states that the congregation currently has a membership of 166 families, which includes approximately 300 adults and approximately 300 children; and

WHEREAS, the applicant represents that it anticipates approximately 75 congregants will attend each weekday prayer session, and approximately 250 congregants will attend services on the Sabbath and holidays; and

WHEREAS, the applicant states that the congregation currently leases space at three separate locations in Queens to accommodate all of its members: (1) 144-11 77th Avenue, which can accommodate 75 people; (2) 147-18 77th Road, which can accommodate 15 people; and (3) 78-15 Parsons Boulevard, which can accommodate 75 people; and

WHEREAS, the applicant represents that, due to the continuing growth of the congregation, even the simultaneous operation of these three locations is insufficient to accommodate the 166 families that currently make up the congregation; and

WHEREAS, the applicant states that the congregation's membership grows by approximately five percent each year, and therefore the requested waivers are necessary to construct a building capable of accommodating the current size of the congregation while allowing for future growth; and

WHEREAS, specifically, the applicant states that the proposed building is capable of accommodating approximately 238 congregants in the worship space, while allowing for sufficient space to house the religious school, Rabbi's apartment, and administrative functions; and

WHEREAS, the applicant submitted as-of-right plans which reflected that a complying building would result in a significantly smaller worship space capable of accommodating only 64 congregants, require the main entrance to be located at the basement level, severely constrain the Rabbi's apartment and administrative functions, and result in the elimination of the religious school; and

WHEREAS, the applicant also submitted plans for a lesser variance alternative that would only require a front yard

waiver, which would result in a worship area capable of accommodating only 212 congregants; and

WHEREAS, the applicant represents that the lesser variance alternative is not capable of satisfying the Jewish Center's programmatic needs because the proposed building, with a worship space that accommodates 238 congregants, provides the minimum amount of space necessary to accommodate the growing congregation which currently totals approximately 300 adult individuals, and that eliminating 26 additional seats would result in a worship space that is too small to accommodate the current congregation, let alone allowing for its future growth; and

WHEREAS, the applicant states that the associated religious school will conduct three different programs of after school classes on Mondays through Thursdays between the hours of 3:00 p.m. and 6:30 p.m.; and

WHEREAS, the applicant further states that the space within the proposed building that is dedicated to the religious school is necessary to accommodate the approximately 300 children congregants who will be attending the programs throughout the course of the week; and

WHEREAS, the applicant represents that the third floor Rabbi's apartment is critical to the Jewish Center's program because it allows the Rabbi to be available to offer religious guidance to members of the congregation at whatever time it may be needed; and

WHEREAS, the Board acknowledges that the synagogue, as a religious 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 Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious 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, based upon the above, the Board finds that the programmatic needs of the Jewish Center 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 Jewish Center is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant states that that the proposed use is permitted in the subject zoning district; and

WHEREAS, as to bulk, the applicant states that there are a number of community facility uses that are larger than the

MINUTES

proposed building located on the surrounding blocks; and

WHEREAS, in support of this statement, the applicant submitted a map and photos depicting six community facility buildings in the vicinity of the subject site which are similar in size or larger than the proposed building; and

WHEREAS, the Board notes that two of the community facility buildings in the applicant's study, located at 147-06 76th Avenue and 76-01 150th Street, are located within three blocks of the subject site and are both significantly larger than the proposed building; and

WHEREAS, as to traffic impact and parking, the applicant notes that the traffic impact would be minimal as a majority of congregants live nearby and would walk to services, specifically to worship services on Fridays and Saturdays; and

WHEREAS, the applicant represents that this proposal would meet the requirements for a parking waiver at the City Planning Commission, pursuant to ZR § 25-35 – Waiver for Locally Oriented Houses of Worship, but for the fact that 12 parking spaces are required at the site and a maximum of ten spaces can be waived in the subject R4 zoning district under ZR § 25-35; and

WHEREAS, in support of this assertion, the applicant submitted evidence reflecting that at least 75 percent of the congregants live within three-quarters of a mile of the subject site; and

WHEREAS, accordingly, 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 hardship was not self-created and that no development that would meet the programmatic needs of the Jewish Center could occur on the existing lot; and

WHEREAS, accordingly, 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 originally proposed to construct a three-story building with a floor area of 9,238 sq. ft. (2.30 FAR) and a total height of 44'-0"; the original proposal would have required an additional waiver for floor area, which exceeded the maximum permitted floor area of 8,000 sq. ft. (2.0 FAR); and

WHEREAS, at the direction of the Board, the applicant revised its plans to reduce the size of the building on multiple occasions, ultimately submitting the current proposal with a floor area of 7,998 sq. ft. (1.99 FAR), thereby eliminating the need for a floor area waiver; and

WHEREAS, the applicant also submitted plans for a lesser variance scenario which was unable to meet the programmatic needs of the Jewish Center; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Jewish Center the relief needed to meet its programmatic needs; 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 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 (EAS) CEQR No. 11BSA004Q, dated November 16, 2010; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R4 zoning district, the construction of a three-story building to be occupied by a synagogue (Use Group 4), religious school, and Rabbi's apartment which does not comply with the underlying zoning district regulations for lot coverage, height and setback, front yard, side yards, side setback, and parking for community facilities, contrary to ZR §§ 24-11, 24-521, 24-34 and 24-35, 24-551 and 25-31, *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 May 3, 2011" – (11) sheets, and *on further condition*:

THAT the building parameters shall be: a floor area of 7,998 sq. ft. (1.99 FAR); lot coverage of 71 percent; a total height of 40'-6"; a front yard with a depth of 10'-0" along the northern lot line and no front yard along the eastern lot line; a side yard with a width of 8'-0" along the southern lot line and a side yard with a width of 5'-0" along the western lot line; and no parking spaces, as illustrated on the BSA-approved plans;

THAT any change in control or ownership of the building shall require the prior approval of the Board;

THAT the use shall be limited to a house of worship (Use Group 4), an accessory Rabbi's apartment, and accessory

MINUTES

religious classes;

THAT no commercial catering shall take place onsite;

THAT signage shall be posted which prohibits parking in the rear of the building that would block nearby residents' access to the community driveway;

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

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

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

THAT 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, August 23, 2011.

27-11-BZ

CEQR #11-BSA-070M

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 88 Franklin Street Group LLC, owner; Acqua Ancien Bath New York, LLC, lessee.

SUBJECT – Application March 22, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Acqua Ancien Bath*). C6-2A zoning district.

PREMISES AFFECTED – 86-88 Franklin Street, east of intersection of Church Street and Franklin Street, Block 175, Lot 8, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Trevis Savage.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative:.....0

Absent: Commissioner Montanez.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Superintendent, dated May 27, 2011, acting on Department of Buildings Application No. 120551385, reads in pertinent part:

“ZR 32-10. Physical culture establishment is not permitted in this district as of right. Secure special permit pursuant to ZR 73-36 from Board of Standards and Appeals;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C6-2A zoning district within the Tribeca East Historic District, the establishment of a physical culture establishment (“PCE”) at

the sub-cellar, cellar, first floor and mezzanine of a six-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*, with a continued hearing on July 26, 2011, and then to decision on August 23, 2011; and

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

WHEREAS, the subject site is located on the north side of Franklin Street, between Church Street and Broadway, in a C6-2A zoning district within the Tribeca East Historic District; and

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

WHEREAS, the PCE has a total of 5,981 sq. ft. of floor area on the first floor and mezzanine, with an additional 4,395 sq. ft. of floor space located in the cellar and sub-cellar; and

WHEREAS, the PCE will be operated as Acqua Ancien Bath; and

WHEREAS, the proposed hours of operation are 7:00 a.m. to 11:00 p.m., seven days per week; and

WHEREAS, the applicant represents that the services at the PCE will include facilities for the practice of massage by New York State licensed masseurs and masseuses; and

WHEREAS, the applicant represents that the proposal will not affect the historical integrity of the property; and

WHEREAS, the applicant submitted a Certificate of No Effect from the Landmarks Preservation Commission (“LPC”) approving work associated with the proposed PCE, dated August 8, 2011; and

WHEREAS, the Board notes that the proposal does not include any signage and the Board’s approval does not include any signage; and

WHEREAS, the applicant states that if signage is planned in the future, it will secure an additional approval from the LPC, as required; 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

MINUTES

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.11BSA070M, dated June 10, 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; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located in a C6-2A zoning district within the Tribeca East Historic District, the establishment of a physical culture establishment at the sub-cellar, cellar, first floor and mezzanine of a six-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 July 14, 2011"- Seven (9) sheets; and *on further condition*:

THAT the term of this grant shall expire on August 23, 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 any changes to the BSA-approved plans, including the installation of signage, may be subject to additional review and approval by the Landmarks Preservation Commission;

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

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

THAT this approval is limited to the relief granted by 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, August 23, 2011.

57-11-BZ

CEQR #11-BSA-090M

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.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative:.....0

Absent: Commissioner Montanez.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Superintendent, dated March 30, 2011, acting on Department of Buildings Application No. 120629356, reads in pertinent part:

“Proposed change of use to a Physical Culture Establishment which is contrary to ZR 32-10 must be referred to the BSA for approval pursuant to ZR Section 73-36;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located partially in a C4-3 zoning district and partially in a C4-4D zoning district within the 125th Street Special District, the operation of a physical culture establishment (PCE) at the cellar and portions of the first and second floor of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on July 19, 2011, after due notice by publication in *The City Record*, and then to decision on August 23, 2011; and

WHEREAS, the subject site is a through lot with frontage on both West 125th Street and West 124th Street, approximately 62 feet west of Adam Clayton Powell Boulevard, partially in a C4-3 zoning district and partially in a C4-4D zoning district within the 125th Street Special District; and

WHEREAS, the site is occupied by a two-story

MINUTES

commercial building; and

WHEREAS, the PCE will occupy 19,431 sq. ft. of floor area on the first and second floor, with an additional 20,504 sq. ft. of floor space located at the cellar level; and

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

WHEREAS, the proposed hours of operation are 24 hours per day, seven days per week; 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 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. 11BSA090M, dated May 2, 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 located partially in a C4-3 zoning district and partially in a C4-4D zoning district within the 125th Street Special District, the operation of a physical culture establishment at the cellar and portions of the first and second floor of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received July 14, 2011" – (5) sheets; and *on further condition*:

THAT the term of this grant shall expire on August 23, 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 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, August 23, 2011.

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.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0
Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to September 20, 2011, at 1:30 P.M., for decision, hearing closed.

MINUTES

196-10-BZ

APPLICANT – James Chin & Associates, LLC, for Turtle Bay Inn, LLC., owner.

SUBJECT – Application October 25, 2010 – Variance (§72-21) to allow ground floor commercial use in an existing residential building, contrary to use regulations (§22-00). R8B zoning district.

PREMISES AFFECTED – 234 East 53rd Street, mid-block parcel located on the south side of 53rd Street, between 2nd and 3rd Avenue, Block 1326, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Chris Wright, James Chin and Robert Pauls.

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

227-10-BZ

APPLICANT – Eric Palatnik, P.C., for Power Test Realty Company Limited Partnership, owner.

SUBJECT – Application December 14, 2010 – Reinstatement (§11-411) of a previously approved variance permitting the operation of an automotive service station (UG 16B) (*Getty*) which expired on October 11, 2000; Amendment to legalize fuel dispensing islands; Extension of Time to obtain a certificate of occupancy which expired on November 17, 1993; Waiver of the rules. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 204-12 Northern Boulevard, Northern Boulevard and 204th Street. Block 7301, Lot 11, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Trevis Savage.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to September 20, 2011, at 1:30 P.M., for decision, hearing closed.

235-10-BZ

APPLICANT – Paul J. Proulux, Esq., c/o Cozen O’Connor, for Avenue K Corporation, owner; TD Bank c/o Facilities Department, lessees.

SUBJECT – Application December 30, 2010 – Variance (§72-21) to allow a commercial use in a residential zone, contrary to use regulations (§22-00). R3-2 zoning district.

PREMISES AFFECTED – 2363 Ralph Avenue, corner of Ralph Avenue and Avenue K, Block 8339, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Paul J. Proulux, Jack Freeman and Jack

Rainey.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 1:30 P.M., for continued hearing.

1-11-BZ

APPLICANT – Martyn & Don Weston Architects, for RAC LLC Realty, owner; Sahadi Importing Company, lessee.

SUBJECT – Application January 3, 2011 – Variance (§72-21) to allow a ground floor enlargement to a pre-existing non complying commercial building, contrary to floor area regulations (§53-31). C2-3/R6 zoning district.

PREMISES AFFECTED – 189-191 Atlantic Avenue, north side of Atlantic Avenue, 240’ east of Clinton Street, Block 276, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Don Weston and Joe Totesco.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to September 20, 2011, at 1:30 P.M., for decision, hearing closed.

2-11-BZ

APPLICANT – Cozen O’Connor, for 117 Seventh Avenue South Property Company, LP, owner.

SUBJECT – Application January 4, 2011 – Variance (§72-21) to allow for a residential and community facility enlargement to an existing commercial building, contrary to setback (§33-432) and open space regulations (§23-14). C4-5 zoning district.

PREMISES AFFECTED – 117 Seventh Avenue South, southeast corner of Seventh Avenue South and West 10th Street, Block 610, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Paul J. Prouly, Howard Hornstein and Jack Freeman.

ACTION OF THE BOARD – Laid over to October 18, 2011, at 1:30 P.M., for continued hearing.

17-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. David Mizrahi, owners.

SUBJECT – Application February 23, 2011 – Special Permit (§73-622) for the enlargement of an existing two family residence, to be converted to a single family residence, contrary to floor area, lot coverage and open space (§23-141(b)) and rear yard (§23-47) regulations. R4/OP zoning district.

PREMISES AFFECTED – 2255 East 2nd Street, East side of East 2nd Street, approximately 145 feet south of Gravesend

MINUTES

Neck Road. Block 7154, Lots 71 & 72, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Nora Martins.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 1:30 P.M., for continued hearing.

18-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for ZTI Corporation, owner.

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 rear yard (§23-47) regulations. R2 zoning district.

PREMISES AFFECTED – 1025 East 22nd Street, between Avenue I and Avenue J, Block 7586, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to September 20, 2011, at 1:30 P.M., for continued hearing.

21-11-BZ

APPLICANT – Eric Palatnik, P.C., for 1810-12 Voorhies Avenue, LLC, owner.

SUBJECT – Application February 28, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory or diagnostic treatment facility. C1-2/R4 zoning district.

PREMISES AFFECTED – 1810 Voorhies Avenue, south side of Voorhies Avenue, between East 19th Street and Sheepshead Bay Road, Block 8772, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Trevis Savage.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 1:30 P.M., for adjourned hearing.

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 (§32-12), floor area (§33-123), rear yard (§33-292), and height and setback (§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

APPEARANCES –

For Applicant: Nadia Alexis.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 1:30 P.M., for adjourned hearing.

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: Nora Martins.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to September 27, 2011, at 1:30 P.M., for decision, hearing closed.

60-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Zvi Turk and Miriam Turk, owners.

SUBJECT – Application May 5, 2011 – Special Permit (§73-622) for the enlargement of existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1214 East 29th Street, west side of East 29th Street and Avenue L, Block 7646, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Nora Martins.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to September 27, 2011, at 1:30 P.M., for decision, hearing closed.

MINUTES

64-11-BZ

APPLICANT – Rampulla Associates Architects, for 3232 49th Realty, LLC, owner; K & G Fitness Group, LLC, lessee.

SUBJECT – Application May 12, 2011 – Special Permit (§73-36) to allow the operation of a physical cultural establishment (*Retro Fitness*). C8-1 zoning district.

PREMISES AFFECTED – 32-28 49th Street, between Northern Boulevard and New Town Road, Block 734, Lot 47, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Phillip L. Rampulla.

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

72-11-BZ

APPLICANT – Walter t. Gorman, P.E., for Tannor and Rothafel Partnership, owner; Lukoil (Getty Service Station), lessee.

SUBJECT – Application May 24, 2011 – Re-Instatement (§11-411) of a previously approved variance permitting the operation of an automotive service station (UG 16B) which expired on October 8, 1994. R3-2 zoning district.

PREMISES AFFECTED - 101-06 Astoria Boulevard, south east corner of 101st Street. Block 1688, Lot 30. Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: John Ronan.

ACTION OF THE BOARD – Laid over to September 20, 2011, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.