
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. 48

November 30, 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	743
CALENDAR of December 13, 2011	
Morning	744
Afternoon	745

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, November 22, 2011**

Morning Calendar746

Affecting Calendar Numbers:

281-39-BZ	1605 Lexington Avenue, Manhattan
88-81-BZ	3309 Richmond Avenue, Staten Island
250-00-BZ	521-541 & 553-563 LaGuardia Place, Manhattan
112-10-BZ	915 Dean Street, Brooklyn
529-52-BZ	77-11 Roosevelt Avenue, Queens
335-59-BZ	3485/95 Atlantic Avenue, Brooklyn
390-61-BZ	148-150 East 33 rd Street, Manhattan
742-70-BZ	830 Bay Street, Staten Island
252-71-BZ	190-18 Northern Boulevard, Queens
608-85-BZ	33-56 11 th Street, Queens
332-98-BZ	3155 Grace Avenue, Bronx
290-03-BZ	1097 Second Avenue, Manhattan
40-05-BZ	1095 Second Avenue, Manhattan
170-08-BZ	411-431 East 69 th Street, Manhattan
187-08-BZ	1247 38 th Street, Brooklyn
98-11-A	2812-2814 Voorhies Avenue, Brooklyn
29-11-A & 30-11-A	318 Lafayette Street, Manhattan
40-11-A	25 Central Park West, Manhattan
61-11-A	134 9 th Avenue, Manhattan
138-11-A	64-01 Woodside Avenue, Queens
140-11-A & 141-11-A	69-17 & 69-19 38 th Avenue, Queens

Afternoon Calendar757

Affecting Calendar Numbers:

2-11-BZ	117 Seventh Avenue South, Manhattan
81-11-BZ	1380 Metropolitan Avenue, aka 44/64 Metropolitan Oval, Bronx
126-11-BZ	87-89 Chambers Street, Manhattan
3-11-BZ	1221 East 22 nd Street, Brooklyn
47-11-BZ	1213 Bay 25 th Street, Queens
67-11-BZ	1430 East 29 th Street, Brooklyn
76-11-BZ	2263 East 2 nd Street, Brooklyn
82-11-BZ	2020 Homecrest Avenue, Brooklyn
89-11-BZ	2224 Avenue S, Brooklyn
92-11-BZ	1349 East 26 th Street, Brooklyn
134-11-BZ	335 Madison Avenue, Manhattan
137-11-BZ	455 Carroll Street, Brooklyn
152-11-BZ	240 East 38 th Street, Manhattan

Correction766

Affecting Calendar Numbers:

827-55-BZ	245-20 139 th Avenue, Queens
72-11-BZ	101-06 Astoria Boulevard, Queens

DOCKET

New Case Filed Up to November 22, 2011

177-11-BZ

601 East 156th Street, northeast corner of East 156th Street and St. Ann's Avenue., Block 2618, Lot(s) 7501, Borough of **Bronx, Community Board: 1**. Special Permit (§73-36) to permit physical culture establishment within portions of an existing building in a C2-3(R7X) zoning district. C2-3(R7X) 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

DECEMBER 13, 2011, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 13, 2011, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

248-75-BZ

APPLICANT – Alfonso Duarte, P.E., for 444 East 86th Street Owners Corp., owner; Quick Park, lessee.
SUBJECT – Application August 8, 2011 – Extension of Term permitting the use of no more than 50 unused and surplus tenant parking spaces, within an accessory garage, for transient parking granted by the Board pursuant to §60 (3) of the Multiple Dwelling Law (MDL) which expired on October 14, 2010; Waiver of the Rules of Practice and Procedure. R8B, R10 & C1-5 zoning districts.
PREMISES AFFECTED – 1621 York Avenue aka 436 East 86th Street, west side of York Avenue, Block 1565, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #8M

280-98-BZ

APPLICANT – Rampulla Associates Architects, LLP, for MARS Holding, LLC, owner.
SUBJECT – Application November 1, 2011– Extend the Time to obtain a Certificate of Occupancy for a previously granted Variance (72-21) for the continued operation of a UG4 Dental Office which expired on June 15, 2011. R2 zoning district.
PREMISES AFFECTED – 2936 Hylan Boulevard, east side of Hylan Boulevard, 100' north of Isabella Avenue, Block 4015, Lot 14, Borough of Staten Island.

COMMUNITY BOARD #3SI

11-93-BZ

APPLICANT – Sheldon Lobel, P.C., for Jovkiss Management, LLC, owner; East Manor Restaurant, lessee.
SUBJECT – Application November 1, 2011 – Extension of Time to obtain a Certificate of Occupancy for a UG6 Eating and Drinking Establishment (Eastern Pavilion Chinese Restaurant) which expired on October 5, 2011. C2-2/R3-2 zoning district.
PREMISES AFFECTED – 46-45 Kissena Boulevard, northeast corner of the intersection formed by Kissena Boulevard and Laburnum Avenue, Block 5208, Lot 32, Borough of Queens.

COMMUNITY BOARD #7Q

18-09-BZ

APPLICANT – Stuart A. Klein, for Ascot Properties Ltd., owner; Gold's Gym, lessee.
SUBJECT – Application October 6, 2011 – Extension of Term of a previously granted Special Permit (73-36) for the continued operation of a Physical Culture Establishment (*Gold's Gym*) which expired on November 1, 2011. C6-5 zoning district.
PREMISES AFFECTED – 250 West 54th Street, between Broadway and 8th Avenue, Block 1025, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEALS CALENDAR

233-10-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Alco Builders Incorporated, owners.
SUBJECT – Application December 23, 2010 – Appeal seeking a common law vested right to continued development commenced under the prior R6 Zoning District. R4-1 Zoning District.
PREMISES AFFECTED – 90-22 176th Street, between Jamaica and 90th Avenues, Block 9811, Lot 61(tent), Borough of Queens.

COMMUNITY BOARD #12Q

86-11-A

APPLICANT – Cozen O'Connor, for Perlbindler Holdings, LLC, owner.
SUBJECT – Application June 10, 2011 – An appeal of the Department of Buildings revocation of non-conforming sign approval. C1-9 zoning district.
PREMISES AFFECTED – 663-673 2nd Avenue, northwest corner of East 36th Street and 2nd Avenue, Block 917, Lot 21, 24-31, Borough of Manhattan.

COMMUNITY BOARD #6M

170-11-A & 171-11-A

APPLICANT – Randy M. Mastro of Gibson, Dunn & Crutcher, LLP, for Win Restaurant Equipment and Supply Corporation, owner; Fuel Outdoor, LLC, lessee.
SUBJECT – Application October 28, 2011– Appellant seeks confirmation that its rights vested on February 27, 2001 and its permit did not "lapse".
PREMISES AFFECTED – 318 Lafayette Street, north west corner of Houston and Lafayette Streets, Block 522, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #2M

CALENDAR

DECEMBER 13, 2011, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, December 13, 2011, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

66-11-BZ

APPLICANT – Jesse Masyr, Wachtel & Masyr LLP, for Whole Foods Market Group, owner.

SUBJECT – Application May 13, 2011 – Variance (§72-21) to permit a UG6 food store (*Whole Foods*), contrary to use regulations. M2-1 zoning district.

PREMISES AFFECTED – 172-220 Third Street, block bounded by 3rd Street, 3rd Avenue, 4th Street Basin and Gowanus Canal, Block 978, Lot 1, 7, 16, 19, 23, 30, 32, Borough of Brooklyn.

121-11-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Convent Avenue Baptist Church, owners.

SUBJECT – Application August 22, 2011– 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.

PREMISES AFFECTED – 351 Convent Avenue aka 420 West 145th Street and 418 West 145th Street, southeast corner of Convent Avenue and West 145th Street, Block 2050, Lot 42 & 47, Borough of Manhattan.

COMMUNITY BOARD #9M

128-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Levana Pinhas and David Pinhas, owners.

SUBJECT – Application August 31, 201 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (23-141); side yard (23-461) and less than the required rear yard (23-47). R3-2 zoning district.

PREMISES AFFECTED – 1860 East 23rd Street, west side of East 23rd Street, between Avenue R and Avenue S, Block 6828m Kit 31, Borough of Brooklyn.

COMMUNITY BOARD #15BK

158-11-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for C and A Capital, LLC, owner; Blink Nostrand, Inc., lessee.

SUBJECT – Application October 11, 2011 – Special Permit (§73-36) to permit physical culture establishment (*Blink*) within portions of a proposed building located in an C4-4A zoning district.

PREMISES AFFECTED – 2166 Nostrand Avenue, east side of Nostrand Avenue, 180.76’ south of intersection of Nostrand Avenue and Flatbush Avenue, Block 7557, Lot 124, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, NOVEMBER 22, 2011
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

281-39-BZ

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

SUBJECT – Application May 3, 2011 – Extension of Term (§11-411) of a 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.

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 – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term of a previously granted variance for a gasoline service station, which expired on May 18, 2009; and

WHEREAS, a public hearing was held on this application on July 12, 2011, after due notice by publication in *The City Record*, with continued hearings on August 23, 2011, September 27, 2011, and November 1, 2011, and then to decision on November 22, 2011; and

WHEREAS, Community Board 11, Manhattan, recommends approval of this application, with the following conditions: (1) the tow truck operation be limited to one vehicle; (2) the parking and storage shall be limited to two vehicles; (3) there shall be no dead storage of motor vehicles; and (4) all vehicles be kept within the property and not on the street or sidewalk; and

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

WHEREAS, the subject site is located on the southeast corner of East 102nd Street and Lexington Avenue, within a C1-5 (R7-2) zoning district; and

WHEREAS, the site is occupied by a gasoline service

station with accessory uses; and

WHEREAS, on May 18, 1954, under the subject calendar number, the Board granted a variance to permit a gasoline service station, lubritorium, auto-washing, motor vehicle repairs and to permit parking on the unbuilt portion of the site for a term of 15 years; and

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

WHEREAS, most recently, on October 17, 2000, the Board granted an amendment and extension of term to expire on May 18, 2009; and

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

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

WHEREAS, the Board raised concerns about the parking of U-Haul trucks and vans on the site and (1) asked the applicant to describe the operational plan for the rental business and (2) directed the applicant to establish that the proposed designated spaces are able to accommodate the trucks and vans; and

WHEREAS, in response, the applicant (1) stated that the operator will limit parking to three rental vehicles at the site, as reflected on the plans, and that excess vehicles will be taken to a companion site at 3260 Broadway, where the use is permitted as-of-right and (2) provided architectural standards for truck parking and specifications on the size of the U-Haul trucks, which reflect that the allocated spaces are sufficiently sized; and

WHEREAS, in response to the conditions requested by the Community Board, the applicant notes that the conditions were incorporated in prior approvals and that it will continue to comply; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution having been adopted on May 18, 1954, so that, as amended, this portion of the resolution shall read: “to permit the extension of the term of the grant for an additional ten years from May 18, 2009, to expire on May 18, 2019; *on condition* that all use and operations shall substantially conform to plans filed with this application marked “Received October 31, 2011”-(5) sheets and “November 10, 2011”-(1) sheet; and *on further condition*:

THAT this term shall expire on May 18, 2019;

THAT U-Haul parking be limited to one truck and two vans, as reflected on the approved plans;

THAT parking on the site shall be otherwise limited to vehicles awaiting service, and no dead storage or parking shall be permitted;

THAT all vehicles be contained within the site and not parked on the street or sidewalk;

THAT the above conditions and all relevant conditions from the prior resolutions shall appear on the certificate of occupancy;

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; and

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

(Alt 854/80)

Adopted by the Board of Standards and Appeals, November 22, 2011.

88-81-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for JFAM Realty, owner.

SUBJECT – Application August 1, 2011 – Extension of Term of a variance (§72-21) which permitted the conversion of an existing two-story building from a dwelling and day care center to an office building which expired on July 21, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on June 18, 2003. R3-1 zoning district.

PREMISES AFFECTED – 3309 Richmond Avenue, 365’ south of the intersection of Richmond Avenue and Gurley Avenue, Block 5533, Lot 20, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Travis Savage.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of the term, and an extension of time to obtain a certificate of occupancy for a previously granted variance permitting the conversion of an existing dwelling and day care center to an office building; and

WHEREAS, a public hearing was held on this application on November 1, 2011, after due notice by publication in *The City Record*, and then to decision on November 22, 2011; and

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

WHEREAS, Community Board 3, Staten Island, recommends approval of this application; and

WHEREAS, the site is located on the east side of Richmond Avenue between Gurley Avenue and Barlow Avenue, within an R3-1 zoning district; and

WHEREAS, the subject site is occupied by a one-story and basement office building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since August 17, 1981 when, under the subject

calendar number, the Board granted a variance to permit the conversion of an existing dwelling and day care center to an office building, for a term of ten years; and

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

WHEREAS, most recently, on December 18, 2001, the Board granted an additional ten-year extension of the term, which expired on July 21, 2011; a condition of the grant was that a certificate of occupancy be obtained by May 18, 2003; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on August 17, 1981, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from July 11, 2011, to expire on July 11, 2021, and to grant a one-year extension of time to obtain a certificate of occupancy, to expire on November 22, 2012; *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 1, 2011’-(5) sheets; and *on further condition*:

THAT the term of this grant shall expire on July 11, 2021;

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

THAT a certificate of occupancy shall be obtained by November 22, 2012;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 500462402)

Adopted by the Board of Standards and Appeals, November 22, 2011.

250-00-BZ

APPLICANT – Bryan Cave LLP, for New York University, owner.

SUBJECT – Application August 10, 2011 – Extension of term a variance (§11-411) to allow transient parking for 149 cars in an existing multiple dwelling accessory garage, and a minor amendment to permit parking on the access ramp. R7-2/C1-5 zoning district.

PREMISES AFFECTED – 521-541&553-563 LaGuardia

MINUTES

Place, block bounded by LaGuardia Place, West 3rd Street, Mercer Street and Bleecker Street. Block 533, Lot 1. Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Judith Gallant.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening, an extension of the term of a previously granted variance for a transient parking garage, and an amendment to the previous approval; and

WHEREAS, a public hearing was held on this application on November 1, 2011, after due notice by publication in *The City Record*, and then to decision on November 22, 2011; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application, with the following conditions: (1) all conditions from previous Board resolutions related to the operation of the garage be continued; (2) the yellow markings in front of the car parking areas be repainted on both the upper and lower levels; (3) no commercial vehicles be permitted in the garage; and (4) a stop sign be added at the top of the exit ramp; and

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

WHEREAS, the subject site is located on the superblock bounded by LaGuardia Place to the east, West Third Street to the south, Mercer Street to the west, and Bleecker Street to the north, partially within an R7-2 zoning district and partially within a C1-5 (R7-2) zoning district; and

WHEREAS, the site is occupied by the Washington Square Village (“WSV”) housing complex, which consists of two 17-story (including penthouse) residential buildings; and

WHEREAS, portions of the cellar and sub-cellar are occupied by an accessory garage; and

WHEREAS, the garage’s most recent certificate of occupancy, dated June 18, 2002, provides that the garage has a minimum capacity of 388 cars and a maximum capacity of 1,296 cars, and that no more than 149 transient spaces are permitted; and

WHEREAS, the current Department of Consumer Affairs license for the garage states that it accommodates 670 cars; and

WHEREAS, on February 7, 1961, under BSA Cal. No. 374-60-BZ, the Board granted a variance to permit a maximum of 149 surplus parking spaces to be used for transient parking for a term of 21 years; and

WHEREAS, on May 25, 1982, the Board extended the term of the variance for an additional ten years, to expire on

February 7, 1992; and

WHEREAS, the variance was not renewed following its expiration in 1992; and

WHEREAS, most recently, on August 14, 2001, the Board permitted the reestablishment of the lapsed variance pursuant to ZR § 11-411 for a term of ten years, which expired on August 14, 2011; and

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

WHEREAS, the applicant also requests an amendment to the previous grant to modify certain conditions of the resolution; and

WHEREAS, specifically, the applicant requests that the Board permit (1) the modification of the condition that the certificate of occupancy state that all new residential leases indicate tenants’ right to recapture any space devoted to transient parking on 30 days’ notice to the owner; and (2) the modification of the condition that there be no parking on or blocking of the ramp or exit leading to the garage; and

WHEREAS, as to the condition regarding tenants’ recapture rights, the applicant submitted an affidavit from NYU’s Vice President of Faculty Housing and Residential Services stating that each new WSV residential tenant is advised of the availability of parking in the subject garage and given the contact information for the garage operator; and

WHEREAS, the applicant also submitted an affidavit from the garage operator stating that residents are given priority over transient parkers in the event of a conflict over parking in the garage, and no WSV resident requesting parking has ever been denied a space in the garage due to lack of capacity or any other reason; and

WHEREAS, the applicant requests that the Board modify this condition by removing the requirement that tenant leases contain the recapture language, and instead substitute a requirement that it post a sign with the recapture language at the garage entrance, where it will be clearly visible; and

WHEREAS, the applicant represents that placing the language in the residential leases is unnecessary to insure that WSV residents receive priority in the garage, and that a permanent sign in the garage is a more effective means of notifying residents of their rights because it is more likely to be seen by residents interested in parking; and

WHEREAS, as to the condition regarding the exit ramp, the applicant states that it operates the garage so that its entrance and exit ramps are not blocked, but requests that the Board modify this condition to allow three ZipCars to be parked on the ramp to provide easy access to those cars for people picking-up and returning them; and

WHEREAS, the applicant notes that the ramp in question is used solely as an exit, and with a width of 26’-2” and a roadway of 20’-6” it is wide enough to accommodate the ZipCars, as well as exiting vehicles; and

WHEREAS, therefore, the applicant states that the ZipCars do not block the ramp or interfere with the efficient operation of the garage, and requests that the Board amend the condition to allow ZipCars to be parked on the exit ramp; and

WHEREAS, in response to the conditions requested by the Community Board, the applicant states that the yellow

MINUTES

markings will be repainted in front of the car parking areas and a stop sign will be added at the top of the exit ramp by February 1, 2012, and that no commercial vehicles are permitted in the garage; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution having been adopted on August 14, 2001, so that, as amended, this portion of the resolution shall read: “to permit the extension of the term of the grant for an additional ten years from August 14, 2011, to expire on August 14, 2021, and to permit the noted modifications to the previous approval; *on condition*:

THAT this term shall expire on August 14, 2021;

THAT a sign indicating that the spaces devoted to transient parking can be recaptured by residential tenants on 30-days’ notice to the owner shall be located in a conspicuous place within the garage, permanently affixed to the wall;

THAT a maximum of three ZipCars may be parked on the garage’s exit ramp provided they do not interfere with egress from the garage;

THAT the above conditions and all relevant conditions from the prior resolutions shall appear on the certificate of occupancy;

THAT a stop sign shall be installed at the top of the exit ramp, the yellow markings in front of the car parking areas shall be repainted on both the upper and lower levels, and the recapture sign shall be installed by February 12, 2012;

THAT the layout of the parking lot shall be as approved by the Department of Buildings;

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

THAT the 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. 5931960)

Adopted by the Board of Standards and Appeals, November 22, 2011.

112-10-BZ

APPLICANT – Sheldon Lobel, P.C., for John Grant, owner.
SUBJECT – Application July 6, 2011 – Amendment to a Special Permit (§73-44) to permit the reduction in required parking with change of use from UG16 to UG6. M1-1 zoning district.

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

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an amendment to a previously approved special permit that allowed a reduction in the number of accessory parking spaces for a proposed conversion of the second story of a two-story building from Use Group 16 warehouse to UG 6 professional office; and

WHEREAS, a public hearing was held on this application on November 1, 2011, after due notice by publication in *The City Record*, and then to decision on November 22, 2011; and

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

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

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

WHEREAS, the site is currently occupied by an 11,414 sq. ft. two-story building with professional offices on the first floor and accessory storage on the second floor; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 19, 2010 when, under the subject calendar number, the Board granted a special permit under ZR § 73-44 to allow a reduction in the required number of accessory parking spaces for a proposed conversion of the second story of a two-story building from Use Group 16 warehouse to UG 6 professional office building parking category B1, from 38 to 28 attended spaces, contrary to ZR § 44-21; and

WHEREAS, the applicant now requests an amendment to permit a further reduction in the number of accessory parking spaces provided on the site from 28 to 21; and

WHEREAS, the applicant states that the requested amendment is necessary because: (1) certain site fences and bumpers reduce the effective area available for parking from the larger area that was believed to be available; (2) DOB required the applicant to show a parking attendant shelter in the parking area; and (3) due in part to the odd shape of the parking area, the lot did not realistically accommodate 28 parking spaces; and

WHEREAS, the applicant notes that the requested reduction in parking to 21 spaces is permitted under the provisions of ZR § 73-44; and

WHEREAS, as discussed in the Board’s prior grant, the applicant proposes to convert the entire 5,707 sq. ft. second floor to UG 6 professional offices; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject M1-1 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for

MINUTES

Use Group 6 uses in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, therefore, the number of parking spaces could be reduced to 19 for the proposed use; and

WHEREAS, the applicant proposes to provide a total of 21 attended parking spaces; and

WHEREAS, the applicant submitted a transit area map reflecting that the immediate vicinity is served by numerous bus lines and subway lines, as well as the Long Island Rail Road; and

WHEREAS, the applicant also submitted a parking survey which indicates that out of 105 parking spaces in the study area, 21 spaces were available at the time the survey was conducted; thus, there is sufficient available parking in the surrounding neighborhood to accommodate any parking overflow that may result from the reduced number of parking spaces provided on the site; and

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

WHEREAS, based upon the above, the Board finds that the requested amendment is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, as adopted on October 19, 2010, so that as amended this portion of the resolution shall read: "to permit a reduction in the required number of accessory parking spaces, from 28 to 21; *on condition* that any and all work shall substantially conform to drawings filed with this application and marked 'Received July 6, 2011' – one (1) sheet; and *on further condition*:

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 320155522)

Adopted by the Board of Standards and Appeals, November 22, 2011.

529-52-BZ

APPLICANT - Alfonso Duarte, P.E., for Alacorn-Mordini Enterprises Inc., owner.

SUBJECT – Application June 7, 2011 – Extension of Term (§11-411) of a variance permitting automotive repair (UG 16B) with accessory uses which expired on May 9, 2011. C2-3/R6 zoning district.

PREMISES AFFECTED – 77-11 Roosevelt Avenue, north

west corner Roosevelt Avenue & 78th Street. Block 1288, Lot 39. Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD – Laid over to January 10, 2012, at 10 A.M., for continued hearing.

335-59-BZ

APPLICANT – Alfonso Duarte P.E., for 3485 Atlantic Avenue Realty Corp., owner; Royal Motor Mart Inc., lessee. SUBJECT – Application July 11, 2011 – Extension of Term (§11-411) of a variance permitting the storage and sales of used cars with accessory office (UG 16B) which expired on December 7, 2009; Waiver of the Rules. R5 zoning district. PREMISES AFFECTED – 3485/95 Atlantic Avenue, North-East corner Nichols Avenue. Block 4151, Lot 1. Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Alfonso Duarte.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to December 13, 2011, at 10 A.M., for decision, hearing closed.

390-61-BZ

APPLICANT – Peter Hirshman, for Rapid Park Industries, owner.

SUBJECT – Application February 22, 2011 – Amendment (§11-413) of a variance for a UG8 parking garage (*Rapid Park Industries*) to permit the addition of an auto rental establishment (UG8) in the cellar level; extension of time to obtain a certificate of occupancy which expired on June 29, 2008. R8B zoning district.

PREMISES AFFECTED – 148-150 East 33rd Street, south side of East 33rd Street, 151.9' east of East 33rd Street and Lexington Avenue. Block 888, Lot 51. Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Peter Hirshman.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to December 13, 2011, at 10 A.M., for decision, hearing closed.

MINUTES

742-70-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 830 Bay Street, LLC, owner.

SUBJECT – Application May 27, 2011 – Extension of Term of a Variance (§72-21) for the continued operation of an automotive service station which expired on May 18, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on February 26, 2009 and waiver of the rules. C1-1/R3-2 zoning district.

PREMISES AFFECTED – 830 Bay Street, southwest corner of Bay Street and Vanderbilt Avenue. Block 2836, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Trevis Savage.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to February 7, 2012, at 10 A.M., for decision, hearing closed.

252-71-BZ

APPLICANT – Alfonso Duarte, for Alan Pearlstein, owner.

SUBJECT – Application June 23, 2011 – Extension of Term of a variance (§72-21) for the continued sale and installation of automobile seat covers and convertible tops (UG 7), furniture sales (UG 6C), and automotive repairs (UG 16B) which expired on July 13, 2011. R3-2 zoning district.

PREMISES AFFECTED – 190-18 Northern Boulevard, Southside Northern Boulevard between 189th and 192nd Streets. Block 5513, Lot 22. Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Alfonso Duarte.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2011, at 10 A.M., for decision, hearing closed.

608-85-BZ

APPLICANT – Sheldon Lobel, P.C., for J.C. Organization, LLC, owner.

SUBJECT – Application July 18, 2011 – Extension of Term of a variance (72-21) which permitted a custom Woodworking Shop (UG 16) which expired on June 17, 2011; Amendment to permit a change of use to a (UG16) General Contractors Establishment and to allow the expansion of two existing mezzanines to create a full second floor. R5 zoning district.

PREMISES AFFECTED – 33-56 11th Street, located on the west side of 11th Street, 235' south of 33rd Street, Block 319,

Lot 36, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Richard Lobel and Nora Martins.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2011, at 10 A.M., for decision, hearing closed.

332-98-BZ

APPLICANT – Sheldon Lobel, P.C., for Workmen's Circle MultiCare Center, owner.

SUBJECT – Application September 20, 2011 – Amendment to a previously granted Variance (§72-21) for an enlargement to an existing nursing home (*Workmen's Circle MultiCare*). R5 zoning district.

PREMISES AFFECTED – 3155 Grace Avenue, entire block bounded by Burke, Grace, Hammersley and Ely Avenues, Block 4777, Lot 2, 57, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to January 10, 2012, at 10 A.M., for continued hearing.

290-03-BZ

APPLICANT – Patrick W. Jones, P.C., for Joseph Rosenblatt, owner; Graceful Services, Inc., lessee.

SUBJECT – Application September 15, 2011 – Extension of Term for a previously granted Special Permit (§73-36) for a Physical Culture Establishment (*Graceful Services*) which expired on September 26, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on April 20, 2005; and an Amendment to legalize an increase in floor area; and Waiver of the Rules. C2-8 (TA) zoning district.

PREMISES AFFECTED – 1097 Second Avenue, west side of Second Avenue, 40' south of East 58th Street, Block 1331, Lot 126, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Patrick W. Jones and Steve Lee.

For Administration: Anthony Scaduto, Fire Department.

ACTION OF THE BOARD – Laid over to January 31, 2012, at 10 A.M., for continued hearing.

40-05-BZ

APPLICANT – Patrick W. Jones, P.C., for 2nd Avenue, Property LLC, owner; Graceful Services, Inc., lessees.

SUBJECT – Application September 15, 2011 – Extension of Term for a previously granted Special Permit (§73-36) for a Physical Culture Establishment (*Graceful Services*) which expired on September 26, 2011; Extension of Time to obtain

MINUTES

a Certificate of Occupancy which expired on April 20, 2005; and an Amendment to legalize an increase in floor area; and Waiver of the Rules. C2-8 (TA) zoning district.

PREMISES AFFECTED – 1095 Second Avenue, west side of Second Avenue 60.5’ south of East 58th Street, Block 1331, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Patrick W. Jones and Steve Lee.

For Administration: Anthony Scaduto, Fire Department.

ACTION OF THE BOARD – Laid over to January 31, 2012, at 10 A.M., for continued hearing.

170-08-BZ

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

SUBJECT – Application September 28, 2011 – Amendment to a variance (§72-21) for a 16-story biomedical research building (*Weill Cornell Medical College*) to permit Hunter College to occupy one floor for medical research purposes. R8 zoning district.

PREMISES AFFECTED – 411-431 East 69th Street, midblock bounded by East 69th and 70th Streets, York and First Avenues, Block 1464, Lot 8, 14, 15, 16 p/21, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Gary Tarnoff.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to December 6, 2011, at 10 A.M., for decision, hearing closed.

187-08-BZ

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

SUBJECT – Application July 18, 2011 – Amendment to a variance (§72-21) to allow a five-story school (*Congregation & Yeshiva Maschzikei Hadas*) to add a sub-cellar level, add additional floor area, increase in lot coverage and building heights, and additional interior changes. M1-2/R6B zoning district.

PREMISES AFFECTED – 1247 38th Street, north side of 38th Street, 240’ west of 13th Avenue, lock 5295, Lots 52 & 56, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to December 6, 2011, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

98-11-A

APPLICANT – Goldman Harris, LLC, for Bay People Inc., for Alloway Ahmed, owner.

SUBJECT – Application July 7, 2011 – Appeal Challenging Department of Buildings’ determination that accessory off-street parking under ZR §25-31 is not required. R4 Zoning District.

PREMISES AFFECTED – 2812-2814 Voorhies Avenue, south side of Voorhies Avenue between East 28th and East 29th Streets, Block 8791, Lots 5, 6 (tent 106), Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Howard Goldman.

ACTION OF THE BOARD – Appeal Denied.

THE VOTE TO GRANT –

Affirmative:0

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

THE RESOLUTION –

WHEREAS, the subject appeal comes before the Board in response to the determination of the First Deputy Commissioner of the Department of Buildings (“DOB”), dated June 7, 2011, to uphold the approval of New Building Permit No. 320041129 (the “Permit”), for the construction of a house of worship at the subject site (the “Final Determination”); and

WHEREAS, the Final Determination reads, in pertinent part:

Per ZR 25-31, the parking requirements for houses of worship are applicable only to the facility’s

MINUTES

largest room of assembly, provided that “rooms separated by movable partitions shall be considered a single room.” The term “movable partitions” means partitions that fold, pivot or retract. Such term does not mean solid partitions that are non-structural. In this case, the partitions separating the rooms are solid, non-structural partitions and are therefore not considered movable. Therefore, the parking calculations approved on 10/22/2010 by John Gallagher are compliant with the plain reading of the text of ZR 25-31; and

WHEREAS a public hearing was held on this application on November 1, 2011, after due notice by publication in *The City Record*, and then to decision on November 22, 2011; and

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

WHEREAS, the subject site is located on the south side of Voorhies Avenue, between East 28th Street and East 29th Street, within an R4 zoning district; and

WHEREAS, this appeal is brought on behalf of Bay People, Inc., an organization comprising residents of the affected block and neighborhood, formed to oppose the proposed house of worship (the “Appellant”); and

WHEREAS, a representative for the owner of 2812-2814 Voorhies Avenue (the “Owner”) provided testimony in opposition to this appeal; and

WHEREAS, DOB appeared and made submissions in opposition to this appeal; and

PROCEDURAL HISTORY

WHEREAS, on November 12, 2010, DOB approved the Permit for construction of the subject three-story house of worship with no accessory off-street parking on the site; and

WHEREAS, the proposal includes a main prayer room with 1,383.5 sq. ft. of floor area on the first floor (the “Main Prayer Room”), and a secondary prayer room with 615 sq. ft. of floor area on the second floor (the “Secondary Prayer Room”); and

WHEREAS, on December 8, 2010, the Appellant submitted a Zoning Challenge and Appeal Form to the Brooklyn Borough Commissioner requesting that DOB overturn its issuance of the Permit because, *inter alia*, the plans do not provide any off street parking, contrary to ZR § 25-31; and

WHEREAS, in response, on February 10, 2011, DOB upheld its issuance of the Permit, stating that the proposed house of worship qualified for a waiver of the off-street parking requirement because the required number of parking spaces for the facility was less than ten; and

WHEREAS, subsequently, on February 25, 2011, the Appellant appealed DOB’s February 10, 2011 determination, resulting in DOB’s issuance of the Final Determination, which forms the basis of this appeal; and

THE APPELLANT’S POSITION

WHEREAS, the Appellant contends that the Final Determination should be overturned because the site does

not provide the required number of parking spaces under ZR § 25-31 and does not qualify for a waiver of the parking requirement under ZR § 25-33; and

WHEREAS, the relevant provisions of the Zoning Resolution are as follows:

ZR § 25-31 – General Provisions (Required Accessory Off-Street Parking Spaces for Permitted Non-Residential Uses)

In all districts, as indicated, accessory off-street parking spaces, open or enclosed, shall be provided in conformity with the requirements set forth in the table at the end of this Section for all development after December 15, 1961, for the uses listed in the table...

Houses of worship, applicable only to the facility’s largest room of assembly; however, rooms separated by movable partitions shall be considered a single room

None required – R6 R7 R8 R9 R10

1 per 10 persons – R1 R2 R3

1 per 15 persons – R4 R5

* * *

ZR § 25-33 – Waiver of Requirements for Spaces below Minimum Number

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated...the parking requirements set forth in Section 25-31 (General Provisions)...shall not apply to permitted non-residential uses if the total number of accessory off-street parking spaces required for all such uses on the zoning lot is less than the number of spaces set forth in the following table:

<u>Number of Spaces</u>	<u>Districts</u>
10	R1 R2 R3 R4 R5...; and

WHEREAS, the Appellant states that, pursuant to ZR § 25-31, the Main Prayer Room has a rated capacity of 138 occupants, which would require nine off-street parking spaces, and the Secondary Prayer Room has a rated capacity of 61 occupants, which would require four off-street parking spaces; for a total of 13 required parking spaces; and

WHEREAS, the Appellant notes that services for the house of worship will be conducted in the Main Prayer Room, which can be viewed from the Secondary Prayer Room through windows located in a solid non-structural wall which faces the Main Prayer Room below; and

WHEREAS, the Appellant contends that the Main Prayer Room will be used in conjunction with the Secondary Prayer Room, and therefore the rooms should be considered a single room of assembly for the purpose of calculating the required number of accessory parking spaces; and

WHEREAS, accordingly, the Appellant argues that the proposed house of worship has an off-street parking requirement of 13 spaces (nine spaces for the Main Prayer Room plus four spaces for the Secondary Prayer Room), and therefore does not qualify for a waiver of the parking requirement under ZR § 25-33 because more than ten spaces are required; and

WHEREAS, the Appellant claims that the capacity of

MINUTES

the Main Prayer Room was intentionally limited in order to fall below the ten-space threshold for the parking waiver under ZR § 25-33, and that the separation of the Main Prayer Room and the Secondary Prayer Room is a subterfuge to avoid the requirement to provide off-street parking at the site; and

WHEREAS, specifically, the Appellant contends that the Secondary Prayer Room is proposed to be constructed as a separate room with a non-load bearing wall and viewing windows between it and the the Main Prayer Room below, rather than as a balcony or mezzanine, solely in order to qualify for the parking waiver under ZR § 25-33; and

WHEREAS, the Appellant further contends that there has been no justification for the need for the wall, which suggests that its only purpose is to allow the Secondary Prayer Room to be characterized as a separate room, and notes that the non-structural wall can be removed in the future pursuant to an Alteration Type 2 application, which would not require any public review; and

WHEREAS, the Appellant argues that the Secondary Prayer Room is intended for female worshippers, and there is no land use or other rationale indicating that female worshippers should not be accounted for in determining the parking requirement; and

WHEREAS, the Appellant notes that in 2004 the City Planning Commission (“CPC”) adopted the Community Facility Zoning Text Amendment, which replaced the term “churches” with the term “houses of worship” in the Zoning Resolution, and amended ZR § 25-31 by modifying the methodology for calculating parking requirements for houses of worship by basing it on “persons rated capacity” rather than the number of “fixed seats”; and

WHEREAS, the Appellant asserts that the purpose of the 2004 text amendment was to address local traffic congestion and illegal parking that occurs at many houses of worship; and

WHEREAS, specifically, the Appellant notes that the CPC Report (N 040202 ZRY), issued at the time the 2004 text amendment was adopted (the “CPC Report”), states that houses of worship often bring “large amounts of automobile traffic to religious services and related functions. The combination of a lack of any effective parking requirement and the changing character of many houses of worship results in local traffic congestion and illegal parking;” and

WHEREAS, the Appellant argues that the separation between the Main Prayer Room and Secondary Prayer Room, and the exclusion of the Secondary Prayer Room from parking calculations, is contrary to the intent of the Zoning Resolution because it undercounts the number of people and cars coming to religious services; and

WHEREAS, finally, the Appellant argues that allowing the Secondary Prayer Room to be excluded from parking calculations will set a precedent that other houses of worship throughout the City can follow in order to avoid the off-street parking requirement; and

WHEREAS, based upon the above, the Appellant requests the following relief: (1) the Final Determination be overturned and the Main Prayer Room and the Secondary

Prayer Room be counted together in determining whether accessory off-street parking is required pursuant to ZR § 25-31; (2) the matter be remanded to DOB to determine the need for the non-load bearing wall and the intended use of the Secondary Prayer Room; and/or (3) the Board order that the non-load bearing wall separating the Secondary Prayer Room from the Main Prayer Room may not be removed in the future unless the parking requirement is recalculated based on the combined area; and

DOB’S POSITION

WHEREAS, DOB contends that no accessory off-street parking spaces are required for the proposed house of worship, pursuant to ZR § 25-31; and

WHEREAS, at hearing, the Owner provided testimony in support of DOB’s position; and

WHEREAS, specifically, DOB states that pursuant to ZR § 25-31, the parking requirements for houses of worship are only applicable to the facility’s largest room of assembly, provided that rooms separated by movable partitions are considered a single room; and

WHEREAS, DOB represents that the term “movable partitions” means partitions between two rooms that fold, pivot or retract; and

WHEREAS, DOB states that, for the proposed house of worship, the assembly room on the first floor (the Main Prayer Room) is separated from the assembly room on the second floor (the Secondary Prayer Room) both horizontally and vertically, by a floor and a non-structural solid wall; and

WHEREAS, DOB further states that neither the floor nor the wall are movable partitions (they do not fold, pivot or retract), and therefore the Main Prayer Room and Secondary Prayer Room are not considered a single room for the purpose of determining the required number of parking spaces; and

WHEREAS, as to the calculation of the parking requirement, DOB states that the largest room of assembly (the Main Prayer Room) is 1,383.5 sq. ft. with a rated capacity of 138 occupants, and that the parking requirement of one space per 15 persons rated capacity results in a requirement of nine off-street parking spaces; and

WHEREAS, DOB further states that pursuant to ZR § 25-33, the parking requirements of ZR § 25-31 do not apply to permitted non-residential uses if the total number of accessory off-street parking spaces required for all the uses on the zoning lot is less than ten spaces; and

WHEREAS, accordingly, DOB concludes that no accessory off-street parking spaces are required for the proposed house of worship; and

CONCLUSION

WHEREAS, the Board is not persuaded by the Appellant’s assertions that DOB erred in calculating the parking requirement for the proposed house of worship, and finds that DOB correctly considered the Main Prayer Room and Secondary Prayer Room as separate rooms of assembly because (1) the text is unambiguous, (2) DOB’s interpretation was not contrary to the intent of the Zoning Resolution, and (3) DOB may not deny a permit based on speculation that there will be future illegal use; and

MINUTES

WHEREAS, the Board finds that the methodology for calculating the parking requirement for a house of worship under ZR § 25-31 is clear in that it only applies “to the facility’s largest room of assembly; however, rooms separated by movable partitions shall be considered a single room;” and

WHEREAS, in the subject case, the Main Prayer Room and Secondary Prayer Room are located on separate floors and are separated both horizontally and vertically by a floor/ceiling and a solid wall; and

WHEREAS, the Board notes that the Appellant has not argued that either the floor or wall separating the two rooms should be considered a “movable partition;” and

WHEREAS, accordingly, the Board finds that the Main Prayer Room and Secondary Prayer Room are properly classified as two separate rooms of assembly; and

WHEREAS, as to the Appellant’s arguments based on the CPC Report and the intent of the Zoning Resolution, the Board agrees that one of the purposes of the text amendment was to address traffic and parking concerns, but notes that the CPC Report specifically contemplated that the parking calculations “would be based on ‘persons rated capacity’ of the largest room of assembly” (emphasis added); and

WHEREAS, the Board further notes that the Appellant’s strained interpretation of the subject text is not supported by the language of the CPC Report, which expressed an intent “to provide houses of worship with flexible methods for the provision of parking,” and specifically retained the existing parking waiver for houses of worship that generate a small number of parking spaces (ZR § 25-33); and

WHEREAS, the Board notes that houses of worship often have multiple prayer rooms, and that the reference to the “largest room of assembly” in ZR § 25-31 indicates that multiple rooms of assembly for prayer were contemplated and that only the largest of such rooms is intended to count toward the parking requirement for a house of worship; and

WHEREAS, accordingly, the Board finds the Appellant’s arguments regarding the intent of the Zoning Resolution to be vague and unsubstantiated, and does not find any evidence in the CPC Report to support the Appellant’s interpretation of the parking requirements for houses of worship; and

WHEREAS, the Board notes that the Appellant’s assertion that the separation between the Main Prayer Room and Secondary Prayer Room is a subterfuge to avoid the parking requirements of ZR § 25-31 and that the rooms operate in conjunction and should therefore be considered a single room of assembly for the purposes of calculating the parking requirement is not supported by any evidence submitted into the record; and

WHEREAS, as to the Appellant’s assertions regarding the potential for future non-compliance of the subject building by removing the wall that separates the two rooms, the Board notes that DOB is prohibited from denying a permit based on a speculative future illegal use (see Matter of Di Milia v. Bennett, 149 A.D.2d 592, 593 (2d Dep’t 1989) (“[t]he standard to be applied herein is the actual use of the

building in question, not its possible future use”)); and

WHEREAS, the Board further notes that the plans associated with DOB’s approval reflect a wall and floor between the Main Prayer Room and the Secondary Prayer Room, and the Board thus rejects the Appellant’s request that it condition its decision on the parking requirement being recalculated if the wall is removed; and

WHEREAS, therefore, the Board finds that DOB properly considered the Main Prayer Room and Secondary Prayer Room to be separate rooms, and properly waived the parking requirement for the subject house of worship pursuant to ZR § 25-33 based on the Main Prayer Room’s total rated capacity of 138 persons and a corresponding parking requirement of nine spaces under ZR § 25-31.

Therefore it is resolved that the subject appeal, seeking a reversal of the Final Determination of the Department of Buildings, dated June 7, 2011, is hereby denied.

Adopted by the Board of Standards and Appeals, November 15, 2011.

29-11-A & 30-11-A

APPLICANT – Randy M. Mastro-Gibson, Dunn & Crutcher LLP, for Win Restaurant Equipment & Supply Corporation, owner; Fuel Outdoor, lessee.

SUBJECT – Application March 24, 2011 – An appeal challenging the Department of Building's revocation of sign permits. M1-5B Zoning District.

PREMISES AFFECTED – 318 Lafayette Street, Northwest corner of Houston and Lafayette Streets. Block 522, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Trevis D. Lenkner.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to January 31, 2012, at 10 A.M., for decision, hearing closed.

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.

THE VOTE TO CLOSE HEARING –

MINUTES

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

ACTION OF THE BOARD – Laid over to December 6, 2011, at 10 A.M., for decision, hearing closed.

61-11-A

APPLICANT – Fire Department of New York, for Mark Scharfman, owner; Multiple Dwelling, lessee.

SUBJECT – Application May 6, 2011 – Application seeking to modify Certificate of Occupancy to require an automatic sprinkler system for residents on upper floors of building.

PREMISES AFFECTED – 134 9th Avenue, West 18th and West 19th Street, Block 742, Lot 4, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Anthony Scaduto, Fire Department.

For Opposition: James I. Moore.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to January 10, 2012, at 10 A.M., for decision, hearing closed.

138-11-A

APPLICANT – Sheldon Lobel, P.C., for 64-01 Woodside Realty, Inc., owner.

SUBJECT – Application September 7, 2011 – Appeal seeking a common law vested right to complete construction under the prior R6 zoning district regulations. R5D zoning district.

PREMISES AFFECTED – 64-01 Woodside Avenue, between 64th and 65th Street, Block 1295, Lot 75, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2011, at 10 A.M., for decision, hearing closed.

140-11-A & 141-11-A

APPLICANT – Sheldon Lobel, P.C., for BQM Management, LLC, owner.

SUBJECT – Application September 8, 2011 – Appeal seeking a common law vested right to complete construction under the prior R6 zoning district regulations. R5D zoning district.

PREMISES AFFECTED – 69-17 & 69-19 38th Avenue, between the BQE and 69th Street, Block 1282, Lot 64 & 65, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2011, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 22, 2011

1:30 P.M.

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

ZONING CALENDAR

2-11-BZ

CEQR #11-BSA-049M

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: Anthony Bartolacci.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated December 6, 2010, acting on Department of Buildings Application No. 110408513, reads in pertinent part:

ZR 23-632: Proposed front setback does not comply.

ZR 23-142: Proposed open space ratio does not comply; and

WHEREAS, this is an application under ZR § 72-21, to permit, within a C4-5 zoning district within the Greenwich Village Historic District, a residential/community facility enlargement to an existing commercial building, which does not comply with front setback and open space ratio requirements, contrary to ZR §§ 23-632 and 23-142; and

WHEREAS, a public hearing was held on this application on May 10, 2011, after due notice by publication in the *City Record*, with continued hearings on August 23, 2011 and November 1, 2011, and then to decision on November 22, 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 2, Manhattan, recommends approval of this application; and

WHEREAS, the site is located on the southeast corner of Seventh Avenue South and West 10th Street; and

WHEREAS, the site has a triangular shape with 135 feet of frontage along Seventh Avenue and 16 feet of frontage along West 10th Street, with a lot area of approximately 5,786 sq. ft.; and

WHEREAS, the site is occupied by three-story commercial building, which was constructed in the early 1990s in accordance with Landmarks Preservation Commissions’ (LPC) approvals; and

WHEREAS, a portion of the building is occupied by a PCE, pursuant to the Board’s approval associated with BSA Cal. No. 1-95-BZ and the remainder is occupied by a grocery store; and

WHEREAS, the building has a floor area of approximately 17,505 sq. ft. (3.02 FAR), a streetwall and total height of 52’-4”, and no open space; and

WHEREAS, the applicant now proposes to add a fourth, fifth, and partial sixth floor to be occupied by a residential and community facility space on the fourth floor and residential use on the two upper floors; and

WHEREAS, the applicant proposes the following non-complying conditions: (1) a streetwall with a height of 74’-4” (a 15-ft. setback is required at a height of 60 feet); and no open space (the minimum open space ratio is 48 percent); and

WHEREAS, the applicant represents that the variance request is necessitated by unique conditions of the site that create a hardship, specifically: (1) the site’s irregular shape and (2) the constraints of the existing building; and

WHEREAS, the applicant states that the site’s shape approximates that of a right triangle with a notch carved out of the 90 degree angle at the rear with six distinct zoning lot lines; and

WHEREAS, the applicant states that the required setback from Seventh Avenue South shifts the building’s bulk away from the long end of the triangle into the right angle where the two sides of a triangle would come together; and

WHEREAS, the applicant states that the site’s irregular shape, including the notch in the rear presents practical difficulties in complying with the relevant zoning regulations; and

WHEREAS, the applicant notes that if the site were a perfect triangle, without the notch, a residential enlargement could be designed with internal circulation at the rear of the site, allowing for a more efficient floor; and

WHEREAS, the applicant represents that a design with the required 15-ft. initial setback would result in residential units with depths limited to 20 feet; and

WHEREAS, the applicant represents that the difference in leasable floor area attributed to the irregular shape would be from 3,829 sq. ft. of leasable residential floor area (subtracting community facility floor area and

MINUTES

circulation space) to 2,025 sq. ft. of leasable space, with the setback; and

WHEREAS, the applicant states that the notch at the back of the building limits the potential uses for that area to non-residential or non-habitable accessory residential uses as it is bound by two lot lines and lacks the requisite access to light and air; and

WHEREAS, the applicant states that a regularly-shaped site would have less exterior perimeter, eliminate unnecessary circulation space, and provide more and better usable, residential floor area; and

WHEREAS, the applicant provided evidence to support a claim that the inclusion of a setback would also require increased structural engineering costs such as a transfer platform above the existing roof to support the new floor 15 feet back from the streetwall; and

WHEREAS, the applicant represents that the site's shape is a unique condition; and

WHEREAS, specifically, the applicant states that when the Westside IRT (2/3 subway) was built in 1917, Seventh Avenue was extended south through the Greenwich Village street grid, leaving irregularly-shaped lots along Seventh Avenue South; and

WHEREAS, the applicant asserts that it is unique from other seemingly similar sites in that (1) many others include contributing buildings in the historic district and thus are eligible for relief from the City Planning Commission pursuant to ZR § 74-711, which the subject noncontributing building is not; (2) few of the other nearby buildings on similarly shaped sites can structurally sustain enlargements; or (3) others are too small to accommodate residential additions, which are only permitted on zoning lots with a total lot area greater than 1,700 sq. ft.; and

WHEREAS, the applicant provided an analysis of all zoning lots bisected by the extension of Seventh Avenue South, which reflects that there are 32 bisected lots out of a much greater number of lots in the study area and only eight (25 percent) of the bisected sites are similar to the subject site with a basically triangular shape, underdeveloped, and non-contributing in the historic district; and

WHEREAS, the applicant cites to Douglaston v. Klein, 51 N.Y.2d 963 (1960) for the principle that a uniqueness finding "does not require that only the parcel of land in question and none other be affected by the condition which creates the hardship" but that the hardship condition not be so generally applicable such that the a series of potential variances be tantamount to a zoning change; and

WHEREAS, the Board agrees that Douglaston does not require that in order to satisfy the uniqueness finding that a site must be the only one with a particular set of conditions leading to hardship; 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) the complying mixed-use building with a

floor area of 26,388 sq. ft.; and (2) the proposed mixed-use building with floor area of approximately 33,344 sq. ft.; and

WHEREAS, the study concluded that the complying scenario would not result in a reasonable return, but that the proposed enlargement would 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 variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the proposed use is conforming and is consistent with the surrounding area and that the existing building with a height of 52'-4" is a full lot coverage building; although 1,041 sq. ft. of open space is required on the first residentially occupied floor, the creation of open space as part of the enlargement above the third floor would not benefit the surrounding area; and

WHEREAS, the applicant asserts that there is a range of building sizes and types in the surrounding area such that there is not a defined building form or profile, thus the absence of the setback and the sky exposure plane encroachment will not be out of character; and

WHEREAS, the applicant notes that the proposed FAR of 5.74 is less than the maximum 6.5 permitted and thus, the bulk is contemplated by zoning district regulations; and

WHEREAS, lastly, because the site is within the Greenwich Village Historic District, the applicant obtained approval of the design from the LPC in the form or a Certificate of Appropriateness, dated June 8, 2010 and

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

WHEREAS, the applicant states that the hardship is a result of the historic street mapping and was not self-created; and

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

WHEREAS, the Board notes that the proposal requires waivers for setback and for open space, and that all other zoning conditions are complying; and

WHEREAS, the Board notes that the proposal reflects a setback with a depth between 18 and 20 feet above the fifth floor height of 74'-4"; and

WHEREAS, accordingly, the Board finds that the requested relief is the minimum necessary to allow the applicant to enlarge the existing building to accommodate the available floor area; and

MINUTES

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Sections 617.6(h) and 617.2(h) of 6 NYCRR; 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. 11BSA049M, dated November 12, 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, 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 to permit, within a C4-5 zoning district within the Greenwich Village Historic District, a residential/community facility enlargement to an existing commercial building, which does not comply with front setback and open space ratio requirements, contrary to ZR §§ 23-632 and 23-142, *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 April 18, 2011"- fourteen (14) sheets; and *on further condition*:

THAT the total building floor area post-enlargement shall not exceed 33,469 sq. ft. (5.74 FAR) and the front wall height shall not exceed 74'-4", as illustrated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, November 22, 2011.

81-11-BZ CEQR #11-BSA-105X

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Parkchester Preservation Co., LP, owner; Blink Metropolitan Avenue, Inc., lessee.

SUBJECT – Application June 7, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Blink Fitness*). C4-2 zoning district.

PREMISES AFFECTED – 1380 Metropolitan Avenue, aka 44/64 Metropolitan Oval, south side of Parkchester Road, 200' east of intersection of Parkchester Road and Metropolitan Avenue, Block 3938, Lot 7501, Borough of the Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated October 24, 2011, acting on Department of Buildings Application No. 220119574, reads in pertinent part:

"The proposed physical culture establishment in a C4-2 (PC) district is contrary to Section ZR 32-10 and requires a special permit from the Board of Standards and Appeals 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 in a C4-2 zoning district within the Special Parkchester Planned Community Preservation District, the operation of a physical culture establishment ("PCE") on portions of the cellar and first floor of a 13-story commercial/residential building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on October 25, 2011, after due notice by publication in *The City Record*, and then to decision on November 22, 2011; and

WHEREAS, the subject site is an irregular-shaped lot which occupies the entire block bounded by McGraw

MINUTES

Avenue to the south, Metropolitan Avenue to the west, and Unionport Road to the east, in a C4-2 district within the Special Parkchester Planned Community Preservation District; and

WHEREAS, the subject site is occupied by a 39-building complex containing 12,271 dwelling units and approximately 500,000 sq. ft. of retail space; and

WHEREAS, the proposed PCE will occupy 525 sq. ft. of floor area on a portion of the first floor of the 13-story commercial/residential building located on the site, with an additional 14,874 sq. ft. of floor space located in a portion of the cellar; and

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

WHEREAS, the proposed hours of operation for the PCE are: Monday through Saturday, from 5:30 a.m. to 11:00 p.m.; and Sunday, from 7:00 a.m. to 9:00 p.m.; and

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

WHEREAS, the applicant states that the Special Parkchester Planned Community Preservation District regulations do not restrict the use of portions of the cellar and first floor of the subject building for the proposed PCE use; and

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

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

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

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

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

WHEREAS, the 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. 11BSA105X, dated June 3, 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 in a C4-2 zoning district within the Special Parkchester Planned Community Preservation District, the operation of a physical culture establishment (“PCE”) on portions of the cellar and first floor of a 13-story commercial/residential building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received September 6, 2011” - (3) sheets, and *on further condition*:

THAT the term of this grant shall expire on November 22, 2021;

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

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

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

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

THAT substantial construction shall be completed in accordance with ZR §73-70;

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, November 22, 2011.

MINUTES

126-11-BZ

CEQR #12-BSA-017M

APPLICANT – Greenberg Traurig, LLP by Jay A. Segal, Esq., for 87 Chambers LLC and IBC Chambers LLC, owners.

SUBJECT – Application August 19, 2011 – Variance (§72-21) to allow for the construction of a new mixed use building, contrary to lot coverage and rear yard equivalent (§§23-145 and 23-532) and accessory off-street parking regulations (§13-00). C6-3A/Tribeca Special District PREMISES AFFECTED – 87-89 Chambers Street, midblock bounded by Chambers Street, Church Street, Reade Street and Broadway, Block 149, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Jay Segal.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated August 16, 2011, acting on Department of Buildings Application No. 120571194, reads in pertinent part:

1. ZR 23-145. Proposed building lot coverage exceeds maximum percentage allowed under ZR 23-145 (proposed 84% > allowed 70%).
2. ZR 23-532. An open space with a minimum depth of 60 feet, midway (or within 5 feet of being midway) between the two street lines is required.
3. ZR 13-12. Proposed off-street parking spaces exceed the amount permitted under ZR 13-12 which only permitted 8 parking spaces; and

WHEREAS, this is an application under ZR § 72-21, to permit, in a C6-3A zoning district within the Tribeca South Historic District and the Special Tribeca Mixed Use District, construction of an eight-story residential building with 36 dwelling units and ground floor retail use, and 11 accessory off-street parking spaces, which does not comply with the zoning regulations related to lot coverage, rear yard equivalent and parking, contrary to ZR §§ 23-145, 23-532 and 13-12; and

WHEREAS, a public hearing was held on this application on October 25, 2011, after due notice by publication in the *City Record*, and then to decision on November 22, 2011; and

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

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

WHEREAS, the subject premises is located on a through lot with frontage on Chambers Street and Reade Street,

between Broadway and Church Street, in a C6-3A zoning district within the Tribeca South Historic District and the Special Tribeca Mixed Use District; and

WHEREAS, the site has 49’-4” of frontage on Chambers Street and 49’-4” of frontage on Reade Street, a depth of 151’-1”’, and a total lot area of 7,459 sq. ft.; and

WHEREAS, the applicant states that the subject site was previously occupied by a five-story mixed-use building which partially collapsed as a result of construction on the adjacent lot to the west of the site; the remaining portion of the former building was subsequently demolished by order of the Department of Buildings; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct an eight-story, 36-unit residential building with commercial use at the cellar and ground floor, and 11 accessory off-street parking spaces located in the cellar; and

WHEREAS, the proposed building will have the following complying parameters: a residential floor area of 40,997 sq. ft. (5.5 FAR), a commercial floor area of 3,871 sq. ft. (0.52 FAR), a total floor area of 44,868 sq. ft. (6.02 FAR), a wall height of 72’-2”’, a total height of 87’-8”’, and a 15’-0” setback from Chambers Street and Reade Street above the seventh floor; and

WHEREAS, however, the proposed building will have the following non-compliances: lot coverage of 84 percent (the maximum permitted lot coverage is 70 percent); an open area measuring 33’-4” by 36’-0” in the rear yard equivalent (an open area with a minimum depth of 60 feet, midway between the two street lines upon which the through lot fronts is required for the rear yard equivalent); and 11 accessory off-street parking spaces (the maximum permitted number of accessory off-street parking spaces is eight); and

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

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with the underlying district regulations: (1) the site is a vacant through lot with a shallow depth; and (2) the building configuration is constricted by the site’s location in both the Tribeca South Historic District and the Special Tribeca Mixed Use District; and

WHEREAS, the applicant states that the subject through lot is vacant and has a shallow depth of 151’-1”’; and

WHEREAS, as to the uniqueness of the site’s 151’-1”’ depth, the applicant submitted an analysis of the 14 blocks surrounding the site, which reflects that the average block width in the vicinity of the site is 171 feet; and

WHEREAS, the block study submitted by the applicant further reflects that the subject site is located on one of only two blocks in the surrounding area with an average width of less than 152 feet, and that the majority of blocks in the study area have widths ranging between 175 feet and 179 feet; and

WHEREAS, the Board notes that the street wall regulations under ZR § 111-20 for the Special Tribeca Mixed Use District and the requirements of the Tribeca South Historic

MINUTES

District necessitate that any development on the site provide a street wall located along the street line on both the Chambers Street and Reade Street frontages; and

WHEREAS, the applicant submitted plans which reflect that, due to the constraints on the zoning lot, a complying development would have to be divided into two street wall components in order to comply with the required 60-ft. rear yard equivalent that must be located in the center of the lot; and

WHEREAS, the plans submitted by the applicant further reflect that a complying building on the subject lot would result in essentially two buildings with a shared common ground floor and lobby and two elevator service cores; and

WHEREAS, the Board notes that, because the lot is shallow at 151'-1", the two building components in a complying scenario would have a depth of only 45'-6" each, and a floor plate of approximately 2,250 sq. ft. at the base, with the floor plate of the upper floors further reduced; as a result, a complying building would have a maximum floor area of 32,736 sq. ft. (4.39 FAR), significantly less than the permitted FAR of 7.52; and

WHEREAS, the Board further notes that the effect of the small floor plate and the service core create building inefficiencies that reduce the amount of revenue generating space as compared to more typical through lot sites; and

WHEREAS, in order to address this unique condition, the applicant requests a waiver of the rear yard equivalent and lot coverage regulations; and

WHEREAS, the applicant notes that the proposed building provides a complying inner court that measures 33'-4" by 36'-0", which will provide sufficient light and air to the units in the building; and

WHEREAS, the Board notes that, due to the constraints on the site, even the proposed development requires two building cores and as a result is significantly underdeveloped with a floor area of 48,868 sq. ft. (6.02 FAR), which is far below the permitted FAR of 7.52; and

WHEREAS, in order to compensate for the unused floor area, the applicant requests a parking waiver to allow for three additional accessory parking spaces on the site; and

WHEREAS, as to the uniqueness of the conditions on the subject site, the applicant submitted a survey of lots within a study area bounded by Worth Street, Broadway, Park Place, and West Broadway; and

WHEREAS, the lot survey submitted by the applicant reflects that, of the 26 through lots in the study area, only three other lots (19 Park Place, 79-81 Chambers Street, and 91 Chambers Street) were "soft" or potential development sites (50 percent or less of the allowable FAR), and of those lots only the subject site is vacant; and

WHEREAS, the applicant represents that the subject site is uniquely constrained as compared to the other underdeveloped through lots in the study area; and

WHEREAS, the applicant states that 19 Park Place is located outside the Tribeca South Historic District and the Special Tribeca Mixed Use District, and as such is not subject to the same street wall continuity provisions and could therefore provide the 60-ft. required rear yard equivalent either at the center of the lot or along the front lot lines; and

WHEREAS, the applicant further states that the other two through lots are located on the subject block, however, 79-81 Chambers Street is part of a larger zoning lot consisting of an interior lot and a corner lot and therefore has multiple options for arranging its floor plates and could allocate some of its unused floor area to other portions of the zoning lot, while 91 Chambers Street (located adjacent to the subject site) obtained a special permit from the City Planning Commission allowing a new residential building which does not have to comply with the rear yard equivalent requirements of ZR § 23-532; and

WHEREAS, based upon the above, the Board finds that the shallow lot dimensions and requirements for street walls located along both street lines are unique physical conditions which, 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 that analyzed: (1) a complying eight-story mixed-use building with 8,025 sq. ft. of commercial space at the cellar and first floor, 22 dwelling units, a total floor area of 32,736 sq. ft., and six accessory off-street parking spaces in the cellar; (2) a lesser variance scenario consisting of an eight-story mixed-use building with 5,539 sq. ft. of commercial space at the cellar and first floor, 36 dwelling units, a total floor area of 44,868 sq. ft. and eight accessory off-street parking spaces in the cellar; and (3) the proposed building; and

WHEREAS, at hearing, the Board directed the applicant to revise its lesser variance scenario to reflect that additional cellar space could be devoted to commercial use; and

WHEREAS, in response, the applicant submitted a revised feasibility study with a lesser variance scenario showing an additional 306 sq. ft. of cellar floor space devoted to commercial use; and

WHEREAS, the revised study concluded that the as-of-right and lesser variance scenarios would not realize a reasonable return but that the proposed scenario would realize a reasonable return; and

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

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

WHEREAS, the applicant states that the surrounding area is generally characterized by residential buildings with ground floor retail use and commercial office buildings; and

WHEREAS, the applicant states that almost all of the existing buildings along Chambers Street and Reade Street occupy their entire zoning lot so that providing the proposed inner court rather than a complying rear yard equivalent will not alter the built character of the area; and

WHEREAS, the applicant further states that the proposed

MINUTES

building will have the same visible footprint as a complying building when viewed from the street; and

WHEREAS, the Board notes that the proposed building complies with all bulk provisions in the subject zoning district, aside from rear yard equivalent and lot coverage; and

WHEREAS, the applicant represents that the addition of three more parking spaces than would be permitted as-of-right is compatible with the conditions in the surrounding neighborhood; and

WHEREAS, the applicant submitted photographs reflecting that there are no lot line windows on either of the immediately adjacent buildings to the east or west of the site; and

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

WHEREAS, the applicant submitted a Certificate of Appropriateness from the Landmarks Preservation Commission (“LPC”) approving work associated with the proposed construction, dated October 19, 2011; and

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

WHEREAS, the applicant states that the hardship herein was not created by the owner or a predecessor in title, but is due to the unique dimensions of the lot; and

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

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

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

WHEREAS, the project is classified as an Type I Action pursuant to Section 617.4 of 6 NYCRR; 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. 12BSA017M, dated August 24, 2011; and

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

WHEREAS, 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, in a C6-3A zoning district within the Tribeca South Historic District and the Special Tribeca Mixed Use District, construction of an eight-story residential building with 36 dwelling units and ground floor retail use, and 11 accessory off-street parking spaces, which is contrary to ZR §§ 23-145, 23-532 and 13-12, *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 25, 2011” – eight (8) sheets; and *on further condition*:

THAT the following shall be the parameters of the proposed building: a total floor area of 44,868 sq. ft. (6.02 FAR), lot coverage of 84 percent; an inner court measuring 33’-4” by 36’-0”; a street wall height of 72’-2”, a total building height of 87’-8”, and a maximum of 11 accessory off-street parking spaces, as indicated on the BSA-approved plans;

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

THAT construction shall be substantially completed in accordance with the requirements of ZR § 72-23; and

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

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

Adopted by the Board of Standards and Appeals, November 22, 2011.

3-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Chaya Schron and Eli Shron, owners.

SUBJECT – Application January 10, 2011 – Special Permit (§73-622) for the enlargement of a single family home, contrary to floor area and open space (§23-141) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1221 East 22nd Street, between Avenue K and Avenue L, Block 7622, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to February 7, 2012, at 1:30 P.M., for adjourned hearing.

MINUTES

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 (*Yeshiva Zichron Aryeh*) with dormitories, contrary to use (§22-13), floor area (§§23-141 and 24-111), side setback (§24-551) and parking regulations (§25-31). R2 zoning district.

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

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to December 6, 2011, at 1:30 P.M., for adjourned hearing.

54-11-BZ

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

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

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

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Lyra J. Altman, Seth Wright and Jim Heineman.

For Opposition: Assemblyman William Colton, Council Member David G. Greenfield, Leo Weinberger, Anna Cali and Sal Cali.

ACTION OF THE BOARD – Laid over to January 10, 2012, at 1:30 P.M., for continued hearing.

67-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Joseph Kleinman, owner.

SUBJECT – Application May 13, 2011 – Special Permit (§73-622) for the enlargement of existing single family home, contrary to floor area and open space (§23-141) side yard and (§23-47) rear yard. R-2 zoning district.

PREMISES AFFECTED – 1430 East 29th Street, West side of 29th Street between Avenue N and Kings Highway. Block 7682, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to January

10, 2012, at 1:30 P.M., for decision, hearing closed.

76-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. Eli Braha, owner.

SUBJECT – Application May 26, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141); rear yard (§23-47) and side yard (§23-461). R4/Ocean Parkway zoning district.

PREMISES AFFECTED – 2263 East 2nd Street, approximately 235' south of Gravesend Neck Road, Block 7154, Lot 68, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to January 10, 2012, at 1:30 P.M., for decision, hearing closed.

82-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. Livaho Choueka, owner.

SUBJECT – Application June 8, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141); side yard (§23-461); rear yard (§23-47) regulations. R5 zoning district.

PREMISES AFFECTED – 2020 Homecrest Avenue, west side of Homecrest Avenue, 165' south of Avenue T, Block 7316, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

89-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Annie and Kfir Ribak, owners.

SUBJECT – Application June 23, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141); side yards (§23-461) and perimeter wall height (§23-631). R3-2 zoning district.

PREMISES AFFECTED – 2224 Avenue S, south west corner of Avenue S and East 23rd Street, Block 7301, Lot 9,

MINUTES

Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to December 6, 2011, at 1:30 P.M., for continued hearing.

92-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Eugene and Margaret Loevinger, owners.

SUBJECT – Application June 24, 2011 – Special Permit (§73-622) for the enlargement of an existing single-family home contrary to floor area and open space (§23-141(a)); side yard (§23-461) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 1349 East 26th Street, east side of East 26th Street, 390' south of Avenue M, block 7662, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

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

134-11-BZ

APPLICANT – Eric Palatnik, P.C., for 335 Madison Avenue LLC, owner, Madison Spa Castle, Inc., lessee.

SUBJECT – Application September 7, 2011 – Special Permit (ZR §73-36) to allow the operation of a physical culture establishment (*Spa Castle*). C5-3 zoning district.

PREMISES AFFECTED – 335 Madison Avenue, corner of Madison Avenue and East 43rd Street. Block 1278, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Eric Palatnik.

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

137-11-BZ

APPLICANT – Slater & Beckerman, LLP, for 455 Carroll Street LLC, owner.

SUBJECT – Application September 7, 2011 – Variance (§72-21) to allow the conversion of the second floor and second floor mezzanine from manufacturing and commercial uses to residential use, contrary to §42-10. M1-2 zoning district.

PREMISES AFFECTED – 455 Carroll Street, mid-block on the north side of Carroll Street between Nevins Street and Third Avenue, Block 447, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Stuart Beckerman and David Belt.

ACTION OF THE BOARD – Laid over to January 10, 2012, at 1:30 P.M., for continued hearing.

152-11-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 240 East 38th Street Condominium on behalf of New York University, owner.

SUBJECT – Application September 19, 2011 – Variance (§72-21) to allow modifications to the existing plazas and arcades associated with the partial re-use of an existing building for a community facility (*NYU Langone Medical Center*), contrary to §37-625. C1-9 zoning district.

PREMISES AFFECTED – 240 East 38th Street, East 37th Street, Second Avenue, East 38th Street and Tunnel Exit Street, Block 918, Lot 1001-1026, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Elise Wagner, Erich Arcement, Signe Nielsen, Kate Parkin, Vicki March Suna and Joan Patey.

For Opposition: Hugh McGlincy.

THE VOTE TO CLOSE HEARING –

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

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

*CORRECTION

This resolution adopted on September 20, 2011, under Calendar No. 827-55-BZ and printed in Volume 96, Bulletin No. 39, is hereby corrected to read as follows:

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: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an extension of term for a previously granted variance for a gasoline service station with accessory uses, that expired on January 31, 2011; 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 January 25, 2011, June 7, 2011, July 12, 2011 and August 23, 2011, and then to decision on September 20, 2011; and

WHEREAS, Community Board 13, Queens, recommends disapproval of this application; and

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

WHEREAS, the subject site is located on the southwest corner of 246th Street and Conduit Avenue at 139th Avenue, within an R3-2 zoning district; and

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

WHEREAS, the Board has exercised jurisdiction over the site since January 31, 1956 when, under the subject calendar number, the Board granted a variance to permit the site to be occupied by a gasoline service station with accessory uses; and

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

WHEREAS, most recently, on September 10, 2002, the Board granted a ten-year extension of term, which expired on January 31, 2011; and

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

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

WHEREAS, at hearing, the Board raised concerns about the following site conditions: (1) parked cars on the sidewalk, (2) signage in excess of the Board approval, and (3) the presence of graffiti; and

WHEREAS, in response, the applicant submitted (1) evidence that the owner installed wheel stops to prevent parking on the sidewalk and (2) photographs of the site, which reflect the removal of excess signage and graffiti; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated January 31, 1956, so that as amended this portion of the resolution shall read: “to extend the term for ten years from January 31, 2011, to expire on January 31, 2021; *on condition* that all use and operations shall substantially conform to plans filed with this application marked ‘May 24, 2011’-(3) sheets; and *on further condition*:

THAT the term of the grant shall expire on January 31, 2021;

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

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

THAT all signage shall comply with the Board-approved signage plan;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB App. No. 420232885)

Adopted by the Board of Standards and Appeals September 20, 2011.

***The resolution has been revised to correct the DOB Application No. which read: “401419924” now reads: “420232885”. Corrected in Bulletin No. 48, Vol. 96, dated November 30, 2011.**

MINUTES

*CORRECTION

This resolution adopted on October 25, 2011, under Calendar No. 72-11-BZ and printed in Volume 96, Bulletin No. 44, is hereby corrected to read as follows:

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: Kieron Bachan.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated May 16, 2011, acting on Department of Buildings Application No. 420354850, reads in pertinent part:

“Proposal to extend the term of the zoning variance for a gasoline service station which is located in an R3-2 zoning district is contrary to the last resolution adopted by the Board of Standards and Appeals under Cal. No. 711-56-BZ and contrary to C.O. No. 202651 and must, therefore, be referred to the Board of Standards and Appeals for reinstatement of the variance since the variance has lapsed;” and

WHEREAS, this is an application for a reinstatement, an extension of term, an extension of time to obtain a certificate of occupancy, and an amendment to permit minor modifications to the approved plans for a prior Board approval of a gasoline service station with accessory uses (Use Group 16) within an R3-2 zoning district, pursuant to ZR § 11-411; and

WHEREAS, a public hearing was held on this application on August 23, 2011, after due notice by publication in the *City Record*, with a continued hearing on September 20, 2011, and then to decision on October 25, 2011; and

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

WHEREAS, Community Board 3, Queens, recommends approval of this application, with the following conditions: (1) the term be limited to five years; (2) the building remain graffiti free; (3) all landscaping be maintained in accordance with the approved plans; (4) all existing walls and fencing be repaired

and maintained; (5) all perimeter sidewalks and tree planting pits be maintained free of debris; and (6) all banners be removed, lighting upgraded, and surveillance cameras installed; and

WHEREAS, the premises is located on a through lot bounded by Astoria Boulevard to the north, 101st Street to the west, and 31st Avenue to the south, within an R3-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 31, 1959 when, under BSA Cal. No. 711-56-BZ, the Board granted a variance to permit the site to be occupied as a gasoline service station with accessory uses, for a term of 15 years; and

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

WHEREAS, most recently, on May 21, 1985, the Board granted a ten-year extension of term, which expired on October 8, 1994; and

WHEREAS, the term of the variance has not been extended since its expiration on October 8, 1994, and

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

WHEREAS, the applicant now proposes to reinstate the prior grant; and

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

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

WHEREAS, the applicant also requests an amendment to reflect minor modifications to the site plan, including the installation of an air tower, yard light and car vacuum along the easterly side of the site, a modification to the dispenser arrangement previously-approved by the Board, and the conversion of the office and sales area to a snack shop; and

WHEREAS, at hearing, the applicant acknowledged that the site has the following non-compliances with the previously-approved plans: (1) the operation of a U-Haul rental business at the site; (2) the presence of debris within the area behind the service building designated as a landscaping area; (3) promotional signage which was not reflected on the approved plans; (4) failure to landscape the easterly side of the property in accordance with the approved plans; and (5) the presence of graffiti on the service building; and

WHEREAS, as evidence that these conditions have been brought into compliance, the applicant submitted a U-Haul Dealership Close-Out Notice and an affidavit from the operator of the site stating that the U-Haul rental business has been discontinued, and submitted photographs and revised plans reflecting the removal of debris from the site, the installation of landscaping along the easterly side of the property and behind the service building, the removal of excess signage, and the painting over of graffiti on the service building; and

WHEREAS, at the Board’s direction, the applicant also submitted revised drawings reflecting that two new street trees

MINUTES

will be planted along the 31st Avenue frontage; and

WHEREAS, the applicant also agreed to the conditions requested by the Community Board, with the exception of the suggested five year term and the requirement to install surveillance cameras at the site; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, issues a Type II determination under 6 NYCRR Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 11-411 to permit the reinstatement, extension of term, extension of time to obtain a certificate of occupancy, and amendment to the previously-approved plans for a prior Board approval of a gasoline service station with accessory uses (UG 16), *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received September 1, 2011"-(6) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on October 25, 2021;

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

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

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

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

THAT a new certificate of occupancy shall be obtained by October 25, 2012;

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

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

THAT the approved plans shall be considered approved 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, October 25, 2011.

***The resolution has been corrected to reflect the 10 Year Term. Corrected in Bulletin No. 48, Vol. 96, dated November 30, 2011.**