
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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February 9, 2011

DIRECTORY

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DOCKET

New Case Filed Up to February 1, 2011

7-11-BZ

177 Dyckman Street, Southeast corner of the intersection of Dyckman Street and Vermilea Avenue., Block 2224, Lot(s) 1, Borough of **Manhattan, Community Board: 12**. Special Permit (§73-36) to legalize the operation of a PCE in a C4-4 zoning district. C4-4 district.

8-11-A

2781 Shell Road, Atwater Court bounded by Shell Road & West 3rd Street; Colby court bounded by Bokee Court & Atwater Court., Block 7232, Lot(s) 1,70, Borough of , **Community Board: .** Proposed reconstruction of a tennis club located within the bed of Atwater Court and Colby Court contrary to General City Law Section 35. R5 Zoning District district.

9-11-BZ

2129A-39A White Plains Road, Southeast corner of the intersection of White Plains Road and Lydig Avenue, Block 4286, Lot(s) 35, Borough of **Bronx, Community Board: 11**. Special Permit (§73-36) to permit the operation of the proposed a PCE in a C4-4 zoning district. C4-4 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

FEBRUARY 15, 2011, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 15, 2011, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

703-80-BZ

APPLICANT – Joseph P. Morsellino, for Louis N. Petrosino, owner.

SUBJECT – Application July 1, 2010 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of an existing scrap metal storage establishment which expires on December 2, 2010 and an Amendment to Legalize the existing enclosure of an open storage area. C8-1 zoning district.

PREMISES AFFECTED – 2994/3018 Cropsey Avenue, southwest corner of Bay 54th Street, Block 6947, Lot 260, Borough of Brooklyn.

COMMUNITY BOARD #13BK

172-99-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Samson Associates LLC, owner; TSI West 14 LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application November 10, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*New York Sports Club*) which expired on August 13, 2009; Waiver of the Rules of Practice and Procedure. C6-2M/C6-2 zoning district.

PREMISES AFFECTED – 34-42 West 14th Street, south side of West 14th Street, between Fifth Avenue and Sixth Avenue, Block 577, Lot 19, Borough of Manhattan.

COMMUNITY BOARD #2M

289-00-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 160 Water Street Associates, owner; TSI Water Street LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application October 29, 2010 – Extension of Term of a previously approved Special Permit (§73-36) for the continued operation of a Physical Cultural Establishment (*New York Sports Club*) which expires on March 6, 2011. C5-5 (LM) zoning district.

PREMISES AFFECTED – 160 Water Street, northwest corner of Water Street and Fletcher Street, Block 70, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #1M

122-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Revlation Development Incorporated, owner. Bensonhurst MRI, P.C., lessee.

SUBJECT – Application January 26, 2011 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the enlargement of an existing medical office building and the construction of residences which expired on February 6, 2011. R5 and C2-3/R5 zoning district.

PREMISES AFFECTED – 2671 86th Street, West 11th and West 12th Streets, Block 7115, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEALS CALENDAR

220-10-BZY

APPLICANT – D.A.B. Group, LLC, for D.A.B. Group, LLC, owner.

SUBJECT – Application November 18, 2010 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior C6-1 Zoning District. C4-4A Zoning District.

PREMISES AFFECTED – 77, 79, 81 Rivington Street, aka 139, 141 Orchard Street, northern portion of block bound by Orchard Street, to the east Rivington to the north, Allen Street to the west and Delancy street to the south, Block 415, Lot 61, 62, 63, 66, 67, Borough of Manhattan.

COMMUNITY BOARD #3M

FEBRUARY 15, 2011, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 15, 2011, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

218-10-BZ

APPLICANT – Simons & Wright LLC, for Bermuda Realty LLC, owner.

SUBJECT – Application November 19, 2010 – Special Permit (§73-19) to permit the operation of a four-story charter school (Brownsville Ascend Charter School) located within a C8-2 zoning district.

PREMISES AFFECTED – 123 East 98th Street, aka 1 Blake Avenue, corner of the intersection of East 98th and Blake Avenue between Ralph Avenue and Union Street, Block 3531, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

CALENDAR

226-10-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Montbatten Equities, LLP, owner; Equinox Fitness, lessee.
SUBJECT – Application December 10, 2010 – Special Permit (§73-36) to allow a PCE (*Equinox Fitness*) on the first, ninth and tenth floors in an existing ten-story mixed-use building. M1-5 zoning district.

PREMISES AFFECTED – 405/42 Hudson Street, southwest corner of Hudson and Leroy Streets, Block 601, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #2M

606-75-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Montbatten Equities, LP, owner; Equinox Fitness, lessee.
SUBJECT – Application December 10, 2010 – Amendment to a prior variance to reflect the change in operation of the PCE (*Equinox Fitness*) to include the first floor and roof. M1-5 zoning district.

PREMISES AFFECTED – 405/42 Hudson Street, southwest corner of Hudson and Leroy Streets, Block 601, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #2M

234-10-BZ

APPLICANT – Moshe M. Friedman, for Labe Twerski, owner.

SUBJECT – Application December 28, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR §23-141(a)) and less than the required rear yard (ZR §23-47). R-2 zoning district.

PREMISES AFFECTED – 2115 Avenue K, north side, 100' east of intersection of Avenue K and East 21st Street, Block 7603, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, FEBRUARY 1, 2011 10:00 A.M.

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

SPECIAL ORDER CALENDAR

1095-64-BZ

APPLICANT – Garo Gumusvan, R.A., for 605 Apartment Corporation, owner; Park & 65 Garage Corporation, lessee.
SUBJECT – Application August 31, 2010 – Extension of Term of an approval pursuant to the Multiple Dwelling Law for transient parking spaces, which expired on March 9, 1980. R8B/R-10 zoning district.

PREMISES AFFECTED – 605 Park Avenue, south east corner of Park Avenue and East 65th Street, Block 1399, Lot 74, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term for a previously granted variance for a transient parking garage, which expired on May 13, 1990; and

WHEREAS, a public hearing was held on this application on January 11, 2011, after due notice by publication in *The City Record*, and then to decision on February 1, 2011; and

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

WHEREAS, the subject site is located on the southeast corner of Park Avenue and East 65th Street, partially within an R8B zoning district and partially within an R10 zoning district; and

WHEREAS, portions of the cellar and basement are occupied by a 50-space accessory parking garage; and

WHEREAS, on March 9, 1965, under the subject calendar number, the Board granted a variance pursuant to Section 60(3) of the Multiple Dwelling Law (“MDL”) to permit a maximum of 20 surplus parking spaces to be used for transient parking for a term of 15 years; and

WHEREAS, most recently, on May 13, 1980, the Board granted a ten-year extension of term, which expired on May 13, 1990; and

WHEREAS, the applicant now requests an additional

extension of term; and

WHEREAS, the applicant submitted a photograph of the sign posted onsite, which states building residents’ right to recapture the surplus parking spaces; 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 March 9, 1965, so that, as amended, this portion of the resolution shall read: “to permit an extension of term for an additional 10 years from the date of this grant, to expire on February 1, 2021; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans and that all work shall substantially conform to drawings filed with this application and marked ‘Received August 31, 2010’-(2) sheets; and *on further condition*:

THAT this term shall expire on February 1, 2021;

THAT all residential leases shall indicate that the spaces devoted to transient parking can be recaptured by residential tenants on 30 days notice to the owner;

THAT a sign providing the same information about tenant recapture rights be located in a conspicuous place within the garage, permanently affixed to the wall;

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

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. 120379544)

Adopted by the Board of Standards and Appeals, February 1, 2011.

119-07-BZ

APPLICANT – Sheldon Lobel, P.C., for SCO Family of Services, owner.

SUBJECT – Application November 15, 2010 – Extension of Time to obtain a Certificate of Occupancy of a previously granted Variance (§72-21) permitting a four-story community facility building (UG4A) which expires on January 27, 2011. M1-2 zoning district.

PREMISES AFFECTED – 443 39th Street, rectangular mid-block lot with 35’ of frontage on the north side of 39th Street, 275’ west of 5th Avenue, Block 705, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Nora Martins.

MINUTES

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy for a four-story community facility building; and

WHEREAS, a public hearing was held on this application on January 11, 2011, after due notice by publication in *The City Record*, and then to decision on February 1, 2011; and

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

WHEREAS, the site is located on the north side of 39th Street, between Fourth Avenue and Fifth Avenue, within an M1-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 27, 2009 when, under the subject calendar number, the Board granted a variance to permit the legalization, conversion and enlargement of a three-story and mezzanine commercial building to a four-story community facility building without parking; a condition of the grant was that a new certificate of occupancy be obtained by January 27, 2011; and

WHEREAS, the applicant now seeks a two-year extension of time to obtain a new certificate of occupancy; and

WHEREAS, the applicant represents that it has not commenced construction at the site or obtained a certificate of occupancy by the stipulated date due to financing delays; and

WHEREAS, the applicant states that, due to funding availability, the project is now being planned in two separate stages: the first stage will consist of building out the first floor, and the second stage will consist of building out the existing mezzanine into a full floor; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to obtain a certificate of occupancy 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 27, 2009, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to February 1, 2013; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a certificate of occupancy shall be obtained by February 1, 2013;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 302325936)

Adopted by the Board of Standards and Appeals February 1, 2011.

55-45-BZ

APPLICANT – Walter C. Maffei, AIA, for Donato Passarella, owner.

SUBJECT – Application August 31, 2010 – Extension of Term (§11-411) for an existing Gasoline Service Station (*Spirit*) which expired on February 27, 2009; Extension of Time to obtain a Certificate of Occupancy which expired on May 2, 2001; waiver of the rules. C2-4/R6B zoning district. **PREMISES AFFECTED** – 51 Kingsland Avenue, Woodpoint Road, Frost Street, Block 2866, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Walter C. Maffei.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 1, 2011, at 10 A.M., for decision, hearing closed.

964-87-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt’s Petroleum Incorporated, owner.

SUBJECT – Application October 18, 2010 – Extension of Term for the continued operation of (UG16) Gasoline Service Station (*Getty*) which expired on February 6, 2010; Extension of Time to obtain a Certificate of Occupancy which expired on January 15, 2003; Amendment to the hours of operation and Waiver of the Rules. C1-3/R6 zoning district.

PREMISES AFFECTED – 780-798 Burke Avenue, southwest corner of Burke and Barnes Avenue, Block 4571, Lot 28, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Laid over to March 15, 2011, at 10 A.M., for continued hearing.

MINUTES

217-96-BZ

APPLICANT – Eric Palatnik, P.C., for Silverbell Investment Company, Incorporated, owner; Enterprise Rent-A-Car, lessee.

SUBJECT – Application December 17, 2010 – Extension of Time to obtain a Certificate of Occupancy for a previously granted Variance (§72-21) of a car rental facility (*Enterprise*) with accessory outdoor storage of cars which expired on July 12, 2010; Waiver of the Rules. C1-2/R-2 zoning district.

PREMISES AFFECTED – 165-01 Northern Boulevard, northeast corner of 165th Street and Northern Boulevard, Block 53340, Lot 8, Borough of Queens.

COMMUNITY BOARD

APPEARANCES –

For Applicant: Trevis Savage.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 1, 2011, at 10 A.M., for decision, hearing closed.

230-98-BZ

APPLICANT – Mitchell S. Ross, Esq., for JC's Auto Enterprises, Limited, owners.

SUBJECT – Application July 22, 2010 – Extension of Term of a previously granted Variance (§72-21) for an automotive repair shop and car sales which expired on June 22, 2010. R-5 zoning district.

PREMISES AFFECTED – 5820 Bay Parkway, northwest corner of 59th Street, Block 55508, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to March 8, 2011, at 10 A.M., for adjourned hearing.

10-99-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for D & M Richmond Realty LLC, owner; TSI Staten Island LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application October 25, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a physical culture establishment (*New York Sports Club*) which expired on October 26, 2009; Waiver of the Rules. M2-1 zoning district.

PREMISES AFFECTED – 300 West Service Road, northwesterly corner of West Service Road and Wild Avenue, Block 270, Lot 135, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins,

Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

ACTION OF THE BOARD – Laid over to March 1, 2011, at 10 A.M., for decision, hearing closed.

93-00-BZ

APPLICANT – The Law Office of Fredrick A. Becker for Green 19 W44 Owner, LLC, owner; TSI West 44 LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application August 25, 2010 – Extension of Term of a Special Permit (§73-36) for the continued operation of a physical culture establishment (*New York Sports Club*) which expired on July 25, 2010. C6-4.5 (MID) zoning district.

PREMISES AFFECTED – 19 West 44th Street, northerly side of West 44th Street, 150' west of 5th Avenue, Block 1260, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 1, 2011, at 10 A.M., for decision, hearing closed.

328-04-BZ

APPLICANT – Goldman Harris LLC, for Rockaway Improvements, LLC, owner.

SUBJECT – Application December 21, 2010 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) of a UG2 four-story residential building with 12 dwelling units which expired on November 21, 2010. M1-1 zoning district.

PREMISES AFFECTED – 108 Franklin Avenue, aka 108-110 Franklin Avenue between Park and Myrtle Avenues, Block 1898, Lot (tent) 49, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Vivien R. Krieger.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 1, 2011, at 10 A.M., for decision, hearing closed.

MINUTES

APPEALS CALENDAR

264-08-A

APPLICANT – Slater & Beckerman, LLP, for Wilshire Hospitality, LLC, owner.

SUBJECT – Application December 22, 2010 – Extension of Time to complete construction and obtain a Certificate of Occupancy for a previously-granted Common Law vesting application which expires on February 3, 2011. M1-3D previous zoning districts; M1-3/R7X current zoning district. PREMISES AFFECTED – 29-23 40th Road, aka 30-02 40th Avenue, through lot, bounded by 40th Road to the south, 40th Avenue to the north, 29th Street to the west, Northern Boulevard to the east. Block 402, Lots 12 & 35. Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Stefanic Marazzi

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previous grant to permit an extension of time to complete construction and obtain a certificate of occupancy for a prior Board determination that the owner of the premises obtained the right to complete construction of a 14-story hotel under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this appeal on January 25, 2011, after due notice by publication in *The City Record*, and then to decision on February 1, 2011; and

WHEREAS, the site was inspected by Chair Srinivasan; and

WHEREAS, the subject site is located on an irregular through lot bounded by 40th Road to the south, and 40th Avenue to the north, located between 29th Street and Northern Boulevard, within an M1-3/R7X zoning district; and

WHEREAS, the subject site has a frontage of 75 feet on 40th Road and frontage of 25 feet on 40th Avenue, and a total lot area of approximately 12,137 sq. ft.; and

WHEREAS, the applicant proposes to construct a 14-story hotel (the “Building”); and

WHEREAS, the Building is proposed to have a total floor area of approximately 60,446 sq. ft. (4.98 FAR); and

WHEREAS, the site was formerly located within an M1-3D zoning district; and

WHEREAS, on July 17, 2008, New Building Permit No. 410123021 (the “Permit”) was issued by the Department of Buildings (“DOB”) permitting construction of the Building, and work commenced on July 22, 2008; and

WHEREAS, on October 7, 2008, (hereinafter, the “Rezoning Date”), the City Council voted to enact the Dutch Kills Rezoning, which changed the zoning district to M1-3/R7X; and

WHEREAS, the applicant represents that the Building complies with the former M1-3D zoning district parameters; specifically, the total building height of 142’-8” was permitted; and

WHEREAS, because the site is now within an M1-3/R7X zoning district, the Building would not comply with the maximum total building height of 125’-0”;

WHEREAS, because the Building is not in compliance with these provisions of the M1-3/R7X zoning district and work on the foundation was not completed as of the Rezoning Date, the Permit lapsed by operation of law; and

WHEREAS, additionally, DOB issued a Stop Work Order on October 8, 2008 halting work on the Building; and

WHEREAS, because DOB did not find that work was completed as of the Rezoning Date, the applicant filed a request to continue construction pursuant to the common law doctrine of vested rights; and

WHEREAS, on February 3, 2009, the Board determined that, as of the Rezoning Date, the owner had undertaken substantial construction and made substantial expenditures on the project, and that serious loss would result if the owner was denied the right to proceed under the prior zoning, such that the right to continue construction was vested under the common law doctrine of vested rights; and

WHEREAS, the Board granted the applicant two years to complete construction and obtain a certificate of occupancy, which will expire on February 3, 2011; and

WHEREAS, accordingly, the applicant is now seeking an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, the applicant states that the Building was not completed by the stipulated date due to financing delays; and

WHEREAS, however, the applicant states that the following work has been performed since February 3, 2009, when the permits were reinstated: completion of the footings and pile-driving; construction of the underground parking area; and completion of 19 percent of the masonry work, 14 percent of the concrete pours, 12 percent of the plumbing systems, ten percent of the elevator systems, eight percent of the fire system installation, and eight percent of the electrical work; and

WHEREAS, the applicant further states the owner has expended \$2,895,535 or 32 percent, out of the \$10,224,088 budgeted for the entire project; the applicant represents that the remaining unpaid expenses are subject to contracts; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: photographs of the site evidencing the amount of work completed and an affidavit from the owner’s Director of Operations detailing the status of the construction work and the amount of expenditures; and

WHEREAS, the Board has reviewed the evidence and has determined that an extension of time is warranted; and

WHEREAS, accordingly, the Board, through this resolution, grants the owner of the site a two-year extension of time to complete construction and obtain a certificate of occupancy; and

Therefore it is Resolved that this application to renew

MINUTES

DOB Permit No. 410123021, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed building and obtain a certificate of occupancy for two years from the expiration date of the prior term, to expire on February 3, 2013.

Adopted by the Board of Standards and Appeals, February 1, 2011.

216-10-A

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 1466 Broadway LP c/o Highgate Holdings, Incorporated, owner.

SUBJECT – Application November 12, 2010 – Appeal pursuant to Section 310(2) of the Multiple Dwelling Law seeking to vary the court requirements under Section 26 of the Multiple Dwelling Law to permit the hotel conversion of an existing commercial building. C6-7 Zoning District.

PREMISES AFFECTED – 1466 Broadway, southeast corner of Broadway and West 42nd Street, Block 994, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES – None.

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 October 28, 2010, acting on Department of Buildings Application No. 120483912 reads, in pertinent part:

“Legally required windows open into two inner courts which do not comply with the requirements of MDL § 26(7);” and

WHEREAS, this is an application pursuant to Multiple Dwelling Law (“MDL”) § 310, to vary court requirements in order to allow for the proposed conversion of the subject building from office and retail uses (Use Groups 6, 9 and 10) to a transient hotel (Use Group 5), contrary to MDL § 26(7); and

WHEREAS, a public hearing was held on this application on January 11, 2011, after due notice by publication in *The City Record*, and then to decision on February 1, 2011; and

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

WHEREAS, the subject site is an irregularly-shaped lot located on the southeast corner of West 42nd Street and Broadway, with a portion of the site along the eastern lot line extending through the block to West 41st Street; and

WHEREAS, the site has approximately 186 feet of frontage along West 42nd Street, 103 feet of frontage along Broadway, and 17 feet of frontage along West 41st Street, and

is located in a C6-7 zoning district within the Theater Subdistrict of the Special Midtown District; and

WHEREAS, the site is occupied by two adjacent buildings; a 15-story building located on the portion of the lot with frontage on West 42nd Street and Broadway (the “Main Building”) and an eight-story building located on the portion of the lot with frontage on West 41st Street (the “Annex”); and

WHEREAS, the applicant states that the Main Building was constructed in 1906 and was used as a hotel, known as the Knickerbocker Hotel, until the early 1920s; the Annex was constructed in the 1890s and was used as a small hotel until the completion of the Main Building, at which point the Annex was incorporated into that building and served as the service entrance to the Knickerbocker Hotel; and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1921 when, under BSA Cal. No. 127-21-A, the Board granted an appeal of a DOB order associated with window materials, in connection with the conversion of the Main Building and the Annex from transient hotel use to retail and office use; and

WHEREAS, in 1979 the owner proposed to convert the Main Building and the Annex to residential use and, under BSA Cal. No. 798-79-A, the Board granted an appeal pursuant to MDL § 310(2) to allow for the proposed residential conversion, which did not comply with the requirement that at least one window in each apartment open onto a street, yard or lawful court, pursuant to MDL §277(7); and

WHEREAS, the applicant notes that, despite the Board’s action under BSA Cal. No. 798-79-A, the Main Building and the Annex were not converted to residential use; and

WHEREAS, currently, the Main Building is partially occupied by office and retail uses and is partially vacant; the Annex is entirely vacant; and

WHEREAS, the applicant proposes to convert the Main Building and the Annex to their original use as a transient hotel with 395 hotel units (the “Proposed Hotel”), which is a permitted use in the underlying zoning district but does not comply with the court requirements of MDL § 26(7); and

WHEREAS, the applicant states that there are currently two narrow courts located at the rear of the Main Building, each less than 16 feet wide, and in order to provide more light and air to the units located in the Proposed Hotel, a portion of the Main Building will be demolished and reconstructed to create a single large court with a width of 68’-9” and a depth of at least 20’-0” (the “Rear Court”); and

WHEREAS, the applicant also proposes to make extensive alterations to the interior of the Main Building in order to provide the Proposed Hotel with 395 hotel units, and to alter the Annex to provide a loading dock on West 41st Street and support space for the Proposed Hotel; and

WHEREAS, the Board notes that pursuant to MDL § 4(9), transient hotels are considered “class B” multiple dwellings; therefore the proposed hotel use must comply with the relevant provisions of the MDL; and

WHEREAS, pursuant to MDL § 30(2), every room in a multiple dwelling must have one window opening directly upon a street or upon a lawful yard, court or space above a setback located on the same lot as that occupied by the multiple

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dwelling; and

WHEREAS, the applicant states that, of the 395 hotel units in the Proposed Hotel, 200 units will have required windows that open onto a street, 105 units will have required windows that open upon the newly created Rear Court, and 90 units will have required windows that open onto an existing court located along the eastern lot line of the site (the "Side Court"); and

WHEREAS, pursuant to MDL § 4(32), both the Rear Court and the Side Court are considered "inner courts;" and

WHEREAS, MDL § 26(7) states that, except as otherwise provided in the Zoning Resolution, (1) an inner court shall have a minimum width of four inches for each one foot of height of such court and (2) the area of such inner court shall be twice the square of the required width of the court, but need not exceed 1,200 sq. ft. so long as there is a horizontal distance of at least 30 feet between any required living room window opening onto such court and any wall opposite such window; and

WHEREAS, the applicant states that the proposed 68'-9" width of the Rear Court complies with the minimum width requirement of MDL § 26(7), however, the Rear Court will have an area of 1,685 sq. ft., which will not equal twice the square of the required width of that court (6,074 sq. ft.), and although the area of the Rear Court will exceed 1,200 sq. ft., not all of the windows opening onto that court will be located at least 30 feet from an opposite-facing wall; thus, the Rear Court will not comply with MDL § 26(7); and

WHEREAS, the applicant further states that the proposed width of the Side Court of 92'-5" complies with the minimum width requirement of MDL § 26(7), however, the Side Court has an area of only 811 sq. ft., which does not equal twice the square of the required width of that court (6,074 sq. ft.) and is less than 1,200 sq. ft.; thus, the Side Court will not comply with MDL § 26(7); and

WHEREAS, pursuant to MDL § 310(2)(a), the Board has the authority to vary or modify certain provisions of the MDL for multiple dwellings that existed on July 1, 1948, provided that the Board determines that strict compliance with such provisions would cause practical difficulties or unnecessary hardships, and that the spirit and intent of the MDL are maintained, public health, safety and welfare are preserved, and substantial justice is done; and

WHEREAS, as noted above, the Main Building was constructed in 1906 and the Annex was constructed in the 1890s; therefore both buildings are subject to MDL § 310(2)(a); and

WHEREAS, specifically, MDL § 310(2)(a) empowers the Board to vary or modify provisions or requirements related to: (1) height and bulk; (2) required open spaces; (3) minimum dimensions of yards or courts; (4) means of egress; and (5) basements and cellars in tenements converted to dwellings; and

WHEREAS, the Board notes that MDL § 26(7) specifically relates to the minimum dimensions of courts; therefore the Board has the power to vary or modify the subject provision pursuant to MDL § 310(2)(a)(3); and

WHEREAS, the applicant represents that practical difficulty and unnecessary hardship would result from strict

compliance with the MDL; and

WHEREAS, the applicant notes that the proposed conversion of the Main Building and the Annex to hotel use will require extensive and costly alterations to both buildings, including the demolition of a significant portion of the Main Building in order to create the Rear Court, major alterations to the Annex, including the construction of a new loading dock and hotel support facilities, and extensive interior alterations to the Main Building in order to convert its existing office and retail uses into a modern, code-compliant hotel; and

WHEREAS, the applicant states that, in order for all of the hotel units in the Proposed Hotel to have windows that open onto a street or a lawful yard or court, as required by MDL § 30(2), even greater portions of the Main Building would have to be demolished and significant modifications to the layout of the Proposed Hotel would have to be made; and

WHEREAS, specifically, the applicant states that: (1) in order for the Rear Court to meet the minimum area requirements of MDL § 26(7), it would have to be enlarged from a depth of approximately 20 feet to a depth of at least 30 feet; (2) a 20-ft. deep rear yard, as required pursuant to ZR § 33-26, would have to be provided at the eastern end of the Main Building; and (3) none of the Main Building's hotel units could have windows that open onto the existing non-complying Side Court; instead, all of the units that did not face a street would have to have windows that open onto the complying Rear Court or the 20-ft. deep rear yard; and

WHEREAS, the applicant submitted alternate plans for a complying hotel, which reflect that a substantially greater portion of the Main Building would have to be demolished under the complying scenario than would be required under the proposed scenario, and as a result, a complying hotel would yield only 359 hotel units as compared to the 395 hotel units in the Proposed Hotel; and

WHEREAS, the applicant states that, due to the need to create a new 20-ft. rear yard, the complying scenario also results in a significantly greater amount of structural work, including: (1) providing temporary support and bracing for the existing building during and after demolition; (2) installing new columns and beams at the new rear of the Main Building to support the existing framing at each floor; (3) making field welded connections between the existing framing and the new building; (4) installing new structural slabs at the new building rear; (5) providing new transfer framing to support the new columns; (6) providing structural protection for nearby buildings during demolition and construction; and (7) constructing a new building façade in the area adjacent to the newly created rear yard; and

WHEREAS, the applicant represents that, although some of the additional costs associated with the complying scenario would be offset by the reduced costs associated with fitting out the smaller number of hotel units, the complying scenario would nonetheless result in significantly higher costs per hotel unit than the Proposed Hotel; and

WHEREAS, in support of this statement, the applicant submitted a study comparing the construction costs associated with the complying hotel design and the Proposed Hotel design, and a letter from the proposed operator which estimates

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the revenues that would be generated by each scenario; these documents indicate that the complying hotel scenario would have significantly higher costs on a per room basis and would generate substantially less annual revenue than the Proposed Hotel; and

WHEREAS, based on the above, the Board agrees that the applicant has established a sufficient level of practical difficulty and unnecessary hardship in complying with the requirements of MDL § 26(7); and

WHEREAS, the applicant states that the requested variance of MDL §26(7) is consistent with the spirit and intent of the MDL, and will preserve public health, safety and welfare, and substantial justice; and

WHEREAS, as noted above, the Main Building and Annex were originally operated as a transient hotel; and

WHEREAS, the applicant notes that, given that the use of the Main Building and the Annex as a transient hotel pre-dated the 1929 enactment of the MDL, the existing court configuration would be permitted as a pre-existing non-compliance if the buildings had not been subsequently converted to office and retail use; and

WHEREAS, the applicant represents that the subject proposal merely seeks to return the buildings to their original use as a transient hotel, which will have the additional benefits of complying with all other modern code requirements and providing increased access to light and air for the hotel units facing the Rear Court as compared to the previous hotel use; and

WHEREAS, the applicant states that, during the site's previous operation as a hotel, the Main Building had its present configuration, including the two narrow courts now located at the rear of that building and the existing Side Court, and a substantial number of the hotel units had windows that opened onto these courts; and

WHEREAS, the applicant further states that the Rear Court for the Proposed Hotel will be substantially larger than the narrow rear courts that served the former hotel; and

WHEREAS, specifically, the Rear Court will have an area of 1,685 sq. ft., which exceeds the generally prescribed area of 1,200 sq. ft. set forth in MDL § 26(7), and will have a depth of at least 20 feet, therefore providing the hotel units that face it with as much light and air as a 20-ft. rear yard, which is the rear yard that is required under the Zoning Resolution for commercial uses, including transient hotels; and

WHEREAS, the applicant states that although the Side Court has a relatively shallow depth of nine feet, the windows in the Proposed Hotel that open onto the court will receive light and air as a result of the conditions on the subject site and the adjacent sites; and

WHEREAS, as to the conditions on the subject site, the applicant notes that the eight-story Annex is located at the southern end of the site, directly opposite the Side Court; therefore, the ninth through 15th stories of the Main Building rise above the Annex and the windows in these upper story units that open onto the Side Court will be exposed to light and air from the south; and

WHEREAS, the applicant states that the southernmost hotel units on the ninth through 15th floors that face the Side

Court to the east will also have south-facing windows, and will therefore receive light and air from the Side Court as well; and

WHEREAS, as to the conditions on adjacent sites, the applicant states that four of the sites located directly to the east of the subject premises constitute a single zoning lot for which a zoning lot development agreement ("ZLDA") has been executed; the relevant adjacent sites include the lot that abuts the Annex to the east on West 41st Street (Lot 16), the lot that abuts the Main Building to the east on West 42nd Street (Lot 49), and the two lots located directly east of Lot 49 (Lots 148 and 47); and

WHEREAS, the applicant notes that Lot 16 has a depth of 98'-8" and is occupied by a five-story building located on the street line at West 41st Street to a depth of 61'-0", with the remaining 37'-8" of Lot 16, including the segment that abuts the Side Court, occupied by a one-story building and a shallow rear yard; therefore, Lot 16 allows a significant amount of light and air to reach the Side Court; and

WHEREAS, the applicant represents that the aforementioned ZLDA imposes a light and air easement on Lot 16 prohibiting any new construction that significantly exceeds the height of the existing five-story and one-story building elements; thereby largely preserving the light and air that currently reaches the Side Court; and

WHEREAS, the applicant submitted a copy of the ZLDA into the record; and

WHEREAS, the applicant states that Lots 49 and 148 are currently vacant and any new development on these sites will likely include a rear yard, which will allow additional light and air to reach the Side Court; and

WHEREAS, the applicant further states that the units in the Proposed Hotel that face the Side Court, along with all other units in the hotel, will be air conditioned and mechanically ventilated, ensuring that adequate fresh air reaches these units; and

WHEREAS, at the Board's request, the applicant analyzed a scenario whereby the MDL non-compliance related to the Side Court was eliminated by having the corridor leading to the units in the southeastern portion of the Main Building located adjacent to the Side Court and having the windows in those units open onto the Rear Court; and

WHEREAS, the applicant submitted alternate plans for this lesser variance scenario, which reflect that the revised arrangement would require that the number of units in the Proposed Hotel be reduced from 395 to 371; and

WHEREAS, the applicant also submitted a revenue estimate indicating that the lesser variance scenario would generate substantially less annual revenue than the proposed scenario, thereby creating practical difficulty and unnecessary hardship; and

WHEREAS, the applicant also notes that in the lesser variance scenario the required windows in a number of the Main Buildings most southerly units would open onto an 8'-3" wide portion of the Rear Court, which is even narrower than the Side Court and directly abuts a 16-story building that is located on the adjacent lot to the west (Lot 9); therefore, the lesser variance scenario would provide certain units with less light and air than the proposed scenario; and

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WHEREAS, the applicant notes that the Landmarks Preservation Commission (“LPC”) designated the Main Building and the Annex (together, the former Knickerbocker Hotel) as an individual landmark in 1988; and

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

WHEREAS, the applicant submitted a Certificate of Appropriateness from the Landmarks Preservation Commission approving the proposed exterior alterations, dated December 17, 2010; and

WHEREAS, based on the above, the Board finds that the proposed variance to MDL § 26(7) will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; and

WHEREAS, accordingly, the Board finds that the Appellant has submitted adequate evidence in support of the findings required to be made under MDL § 310(2)(a) and that the requested variance of MDL § 26(7) is appropriate, with certain conditions set forth below.

Therefore it is Resolved, that the decision of the Manhattan Borough Commissioner, dated October 28, 2010, is modified and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the plans filed with the application marked, "Received December 23, 2010" - two (2) sheets; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed Department of Buildings objections related to the MDL;

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

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

Adopted by the Board of Standards and Appeals, February 1, 2011.

70-08-A thru 72-08-A

APPLICANT – Eric Palatnik, P.C., for TOCS Developers Incorporated, owner.

SUBJECT – Application December 17, 2010 – Extension of time to complete construction and obtain a Certificate of Occupancy for a previously-granted Common Law vesting which expired on January 13, 2011. R3A zoning district. PREMISES AFFECTED – 215A, 215B, 215C Van Name Avenue, north of the corner formed by intersection of Van Name and Forest Avenues, Block 1194, Lot 42, 41 & 40, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Trevis Savage.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 8, 2011, at 10 A.M., for decision, hearing closed.

73-08-A thru 75-08-A

APPLICANT – Eric Palatnik, P.C., for S. B. Holding, owner.

SUBJECT – Application December 17, 2010 – Extension of time to complete construction and obtain a Certificate of Occupancy for a previously-granted Common Law vesting which expired on January 13, 2011. R3-A zoning district. PREMISES AFFECTED – 345A, 345B, 345C Van Name Avenue, northeast of the corner formed by Van Name and Forest Avenues, Block 1198, Lot 42, 43, 44, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Trevis Savage.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 8, 2011, at 10 A.M., for decision, hearing closed.

201-10-BZY

APPLICANT - Law Offices of Marvin B. Mitzner, for LES Realty Group LLC, owner.

SUBJECT – Application October 29, 2010 – Extension of Time (§11-332) to complete construction of a minor development commenced under the prior C6-1 zoning district. C4-4A zoning district.

PREMISES AFFECTED – 180 Orchard Street, through lot extending from Orchard Street to Ludlow Street. Block 412, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Marvin B. Mitzner

ACTION OF THE BOARD – Laid over to March 1, 2011, at 10 A.M., for continued hearing.

215-10-A

APPLICANT – James Chin et al, for Saint Mary’s Hospital for Children, owner.

SUBJECT – Application November 20, 2010 – An appeal challenging the issuance of permits and approvals for the expansion of a community facility (*St. Mary’s Hospital*) related to use (§22-14), floor area (§24-111) and setbacks (§24-34). R2A Zoning District.

PREMISES AFFECTED – 29-01 216th Street, west of Cross Island Expressway, east of intersection of 29th Avenue and 216th Street, Block 6059, Lot 1, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

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For Applicant: Albert K. Butzel, Karen Pender, James Chin, Robert Bassocino and Tim Vance.

For Opposition: Lisa Orrantia of Department of Buildings and Karen Binder.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 8, 2011, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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

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

ZONING CALENDAR

150-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Lyle Broochian, owner.

SUBJECT – Application August 16, 2010 – Special Permit (§73-622) for the legalization of the enlargement of an existing single family home, contrary to floor area (§23-141); side yard (§23-461) and rear yard regulations (§23-47). R2 zoning district.

PREMISES AFFECTED –1124 East 26th Street, west side of East 26th Street, between Avenue K and Avenue L, Block 7625, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 29, 2010, acting on Department of Buildings Application No. 320176108, reads in pertinent part:

- “1. Floor area is contrary to ZR 23-141a
2. Side yard requirements are contrary to ZR 23-461a
3. Rear yard requirements are contrary to ZR 23-47;” and

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

WHEREAS, a public hearing was held on this application on November 23, 2010, after due notice by publication in *The City Record*, with a continued hearing on January 11, 2011, and then to decision on February 1, 2011; and

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

WHEREAS, Community Board 14, Brooklyn,

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recommends approval of this application; and

WHEREAS, the subject site is located on the west side of East 26th Street, between Avenue K and Avenue L, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 3,750 sq. ft., and is occupied by a single-family home with a floor area of approximately 2,573 sq. ft. (0.69 FAR); and

WHEREAS, the applicant states that the subject home was previously enlarged by an addition to the rear of the building of approximately 450 sq. ft.; this addition resulted in non-compliances associated with floor area and rear yard depth, which the owner now proposes to legalize; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from approximately 2,573 sq. ft. (0.69 FAR) to 2,771 sq. ft. (0.74 FAR); the maximum permitted floor area is 1,875 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to maintain the existing side yard with a width of 3'-10" along the northern lot line (a minimum width of 5'-0" is required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20'-10 1/4" (a minimum rear yard of 30'-0" is required); and

WHEREAS, at hearing, the Board questioned whether portions of the attic exceeded floor-to-ceiling height of 8'-0" and therefore should be counted as floor area; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the floor-to-ceiling height in the attic has a maximum height of 7'-11", and therefore is exempt from floor area calculations; and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement and partial legalization of a single-family home, which does not comply with the zoning requirements for floor area, side yards and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition*

that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 30, 2010"-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,771 sq. ft. (0.74 FAR); a side yard with a minimum width of 3'-10" along the northern lot line; and a rear yard with a minimum depth of 20'-10 1/4", as illustrated on the BSA-approved plans;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

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

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

Adopted by the Board of Standards and Appeals, February 1, 2011.

240-09-BZ

APPLICANT – T-Mobile Northeast LLC f/k/a Omnipoint Communications Inc., for 452 & 454 City Island Avenue Realty Corp., owner; T-Mobile Northeast LLC, lessee.

SUBJECT – Application August 10, 2009 – Variance (§72-21) to construct a telecommunications facility on the rooftop of an existing building, contrary to height (Special City Island District (CD), §112-103, §33-431) and rear and side yard setback (§§23-47 and 23-464) requirements. R3A/C2-2/CD districts.

PREMISES AFFECTED – 454 City Island Avenue, east side of City Island Avenue bound by Browne Street, south and Beach Street to the north, Block 5646, Lot 3, Borough of Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Robert Gaudio, Gregory Nowak and Donna-Marie Stipo.

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

35-10-BZ

APPLICATION – Sheldon Lobel, PC for Yuriy Pirov, owner.

SUBJECT – Application March 22, 2010 – Variance (§72-21) to permit the legalization of an existing synagogue (*Congregation Torah Haim Ohel Sara*), contrary to front

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yard (§24-34), side yard (§24-35) and rear yard (§24-36). R4 zoning district.

PREMISES AFFECTED – 144-11 77th Avenue, approximately 65 feet east of the northeast corner of Main Street and 77th Avenue. Block 6667, Lot 45, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 8, 2011, at 1:30 P.M., for decision, hearing closed.

45-10-BZ

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

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

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

COMMUNITY BOARD #4BX

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to March 15, 2011, at 1:30 P.M., for adjourned hearing.

68-10-BZ

APPLICANT – Eric Palatnik, P.C., for CDI Lefferts Boulevard, LLC, owner.

SUBJECT – Application May 4, 2010 – Variance (§72-21) to allow a commercial building, contrary to use regulations (§22-00). R5 zoning district.

PREMISES AFFECTED – 80-15 Lefferts Boulevard, between Kew Gardens Road and Talbot Street, Block 3354, Lot 38, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 8, 2011, at 1:30 P.M., for decision, hearing closed.

130-10-BZ

APPLICANT – Sheldon Lobel, P.C., for John Ingravallo, owner.

SUBJECT – Application July 16, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141) and perimeter wall height (§23-631) regulations. R3X zoning district.

PREMISES AFFECTED – 1153 85th Street, north side of 85th Street, between 11th and 12th Avenue, Block 6320, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Jordan Most.

For Opposition: Eric Palatnik and Sal Genovese.

ACTION OF THE BOARD – Laid over to March 15, 2011, at 1:30 P.M., for continued hearing.

183-10-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Cornerstone Residence LLC, owner.

SUBJECT – Application September 20, 2010 – Variance (§72-21) for the construction of a detached two-story, two family residence, contrary to front yard (§23-45) and side yard requirements (§23-461). R5 zoning district.

PREMISES AFFECTED – 873 Belmont Avenue, aka 240 Milford Street, northwest corner of Belmont Avenue and Milford Street, Block 4024, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Todd Dale.

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

197-10-BZ thru 199-10-BZ

APPLICANT – Antonio S. Valenziano, AIA, for John Merolo, owner.

SUBJECT – Application October 26, 2010 – Variance (§72-21) to allow three residential buildings in a manufacturing district, contrary to use regulations (§42-10). M1-1 zoning district.

PREMISES AFFECTED – 59, 63 & 67 Fillmore Street, 491.88' west of York Avenue, Block 61, Lot 27, 29, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Anthony S. Valenziano.

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

213-10-BZ

APPLICANT – EPDSO, Inc., for 2071 Clove LLC, owner; Grasmere Bodybuilding Inc. (d/b/a Dolphin Fitness), lessee.

SUBJECT – Application November 9, 2010 – Special Permit (§73-36) to legalize the operation of a Physical

MINUTES

Culture Establishment (Dolphin Fitness Center). C8-1 zoning district.

PREMISES AFFECTED – 2071 Clove Road, Clove Road (Grasmere Commons Shopping Center) between Mosel Avenue and Hillcrest Terrace, Block 2921, Lot 6, Borough of Staten Island.

COMMUNITY BOARD #6SI

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 8, 2011, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.