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AND APPEALS

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DOCKET

New Case Filed Up to April 3, 2012

72-12-BZ

213-223 Flatbush Avenue, southeast corner of Dean Street and Flatbush Avenue, Block 1135, Lot(s) 11, Borough of **Brooklyn, Community Board: 06**. Variance (§72-21) seeking approval to waive the residential off-street parking requirements for the site and waive the residential floor area, open space, lot coverage, maximum base height and maximum building height regulations for the small portion of the site zoned R6B to facilitate the construction of a mixed-use building with retail located on the ground floor and residential dwelling units located on the 2nd through 6 floors. R7A/C2-4 and R6B district.

73-12-BZ

41-19 Bell Boulevard, east side of Bell Boulevard between 41st Avenue (south of LIRR tracks) and 42nd Avenue, Block 6290, Lot(s) 5, Borough of **Queens, Community Board: 11**. Application for a special permit to legalize an existing physical culture establishment in a C2-2 district. C2-2 in an R6B district.

74-12-BZ

252 Exeter Street, West side, 350'-0" North of Esplanade between the Esplanade and Oriental Boulevard, Block 8742, Lot(s) 2, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for the enlargement of a single family residence contrary to floor area, open space and lot coverage (ZR 23-141); side yard (ZR 23-461) and less than the required rear yard (ZR 23-47). R3-1 zoning district. R3-1 district.

75-12-BZ

547 Broadway, Broadway, between Prince Street and Spring Street, Block 498, Lot(s) 15, Borough of **Manhattan, Community Board: 02**. Variance (§72-21) to permit the legalization of a the use of retail (UG 6) on the first floor and expand the use into the cellar with accessory use in the sub-cellar contrary to §42-14 (D)(2)(b) of the New York City Zoning Resolution. M1-5B zoning district. M1-5B district.

76-12-BZ

148 Norfolk Street, west side of Norfolk Street between Oriental Boulevard and Shore Boulevard, Block 8756, Lot(s) 18, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (ZR 23-141) and less than the minimum side yards (23-461). R3-1 zoning district. R3-1 district.

77-12-BZ

91 Franklin, 82'3" southerly from the southeasterly side corner of Franklin Avenue and Park Avenue., Block 1899, Lot(s) 24, Borough of **Brooklyn, Community Board: 03**. Proposed new 5 story residential building in an M1-1 zone, which is contrary to ZR42-00 use regulations. M1-1 district.

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

CALENDAR

MAY 1, 2012, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 1, 2012, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

305-00-BZ

APPLICANT – Robert A. Caneco, for Robert Gullery, owner.

SUBJECT – Application April 16, 2012 – Extension of Time to obtain a Certificate of Occupancy for a previously granted Variance (72-21) for the continued operation of a UG8 open parking lot which expired on January 15, 2004; waiver of the rules. R3-1 zoning district.

PREMISES AFFECTED – 268 Adams, south side of Adams Avenue between Hylan Boulevard and Boundary Avenue, Block 3672, Lot 14, Borough of Staten Island.

COMMUNITY BOARD #2SI

359-01-BZ

APPLICANT – Sheldon Lobel, P.C., for Bnos Zion of Bobov, Inc., owner.

SUBJECT – Application February 3, 2012 – Application (ZR§§72-01 and 72-22) to request an amendment to the plans previously approved by the BSA to permit the enclosure of an existing open areaway at the premises for use as one-story shared entrance way, which would increase the lot coverage and floor area ratio contrary to ZR §24-11 and BSA Cal. No. 359-01-BZ.R6 zoning district.

PREMISES AFFECTED – 5002 14th Avenue, aka 5000-5014 14th Avenue, aka 1374-1385 50th Street, Block 5649, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #12BK

395-04-BZ

APPLICANT – Moshe M. Friedman, P.E., for Congregation Imrei Yehudah, owner; Meyer Unsdorfer, lessee.

SUBJECT – Application April 3, 2012 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) for the proposed construction of a UG4 synagogue which expired on November 1, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on November 1, 2009; Waiver of the Rules. R5 zoning district.

PREMISES AFFECTED – 1232 54th Street, southwest side 242'6" southeast of the intersection formed by 54th Street and 12th Avenue, Block 5676, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #12BK

128-10-BZ

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

SUBJECT – Application December 21, 2011 – Application filed to amend previously BSA approved resolution to allow increase in proposed building height, total floor area and to include an elevator lift as a solution for handicap access. R4 zoning district.

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

COMMUNITY BOARD #8Q

APPEALS CALENDAR

19-12-A

APPLICANT – Goldman Harris LLC, for 38-30 28th Street, LLC, owner.

SUBJECT – Application January 30, 2012 – Request for a determination that the Applicant has obtained a vested right under the common law to continue construction and obtain a Certificate of Occupancy. M1-2 R5BLIC Zoning District.

PREMISES AFFECTED – 38-30 28th Street, between 38th and 39th Avenues. Block 386, Lot 27. Borough of Queens.

COMMUNITY BOARD #1Q

41-12-A

APPLICANT – Queen First Properties, LLC, for Mohammad Uddin, owner.

SUBJECT – Application February 15, 2012 – Appeal seeking a common law vested right to continue development commenced under the prior R6 Zoning District. R5A Zoning District.

PREMISES AFFECTED – 112-26 38th Avenue, 225' from the corner of 112th Street and 38th Avenue. Block 1785, Lot 10. Borough of Queens.

COMMUNITY BOARD #3Q

CALENDAR

MAY 1, 2012, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 1, 2012, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

187-10-BZ

APPLICANT – Khalid M. Azam, Esq., owner.
SUBJECT – Application October 5, 2010 – Variance (§72-21) to permit the legalization of a three family building which does not comply with the side yard zoning requirements (ZR §23-462(c)). R6B zoning district.
PREMISES AFFECTED – 40-29 72nd Street, between Roosevelt Avenue and 41st Avenue, Block 1304, Lot 16, Borough of Queens.

COMMUNITY BOARD #2Q

187-11-BZ

APPLICANT – Davidoff Malito & Hutcher, LLP, for Sandford Realty, LLC, owner.
SUBJECT – Application December 8, 2011 – Variance (§72-21) to allow for the enlargement and conversion of existing manufacturing building to mixed-use residential and commercial building, contrary to use regulations, ZR 42-00. M1-1 zoning district.
PREMISES AFFECTED – 118 Sanford Street, between Park Avenue and Myrtle Avenue, Block 1736, Lot 32, Borough of Brooklyn.

COMMUNITY BOARD #3BK

40-12-BZ

APPLICANT – Francis R. Angelino, Esq., for Helm Equities Richmond Avenue, LLC, owner; Global Health Clubs, LLC, lessee.
SUBJECT – Application February 14, 2012 – Application for special permit under Z.R. §73-36 for new physical culture establishment (Global Health Clubs). C2-1 zoning district.
PREMISES AFFECTED – 2385 Richmond Avenue, Richmond Avenue and East Richmond Hill Road, Block 2402, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

42-12-BZ

APPLICANT – Sheldon Lobel, P.C., for 158 West 27th Street, LLC, owner; 158 West 27th Fitness Group, LLC, lessee.

SUBJECT – Application February 16, 2012 – Application filed pursuant to Z.R. §§ 42-31 and 73-36 seeking a special permit to allow the operation of a physical culture establishment (*Planet Fitness*) on a portion of the cellar, first and second floors of the existing twelve-story building at the premises.

PREMISES AFFECTED – 158 West 27th Street, located on the south side of 27th Street, between Avenue of the Americas and Seventh Avenue, Block 802, Lot 75, Borough of Manhattan.

COMMUNITY BOARD #5M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, APRIL 3, 2012
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

348-75-BZ

APPLICANT – Eric Palatnik, P.C., for Moises A. Villa Delgado, owner.

SUBJECT – Application October 31, 2011 – Extension of the term of an approved variance that expired on March 9, 1996 to allow for a UG 16 animal hospital, contrary to use regulations. Waiver of the Rules. R3-2 zoning district
PREMISES AFFECTED – 1050 Forest Avenue, between Manor Road and Raymond Place, Block 315, Lot 39, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Todd Dale.

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, a waiver, and an extension of term for the continued use of the site as an animal hospital (Use Group 16), which expired on March 9, 1996; and

WHEREAS, a public hearing was held on this application on February 7, 2012, after due notice by publication in *The City Record*, with a continued hearing on March 20, 2012, and then to decision on April 3, 2012; and

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

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

WHEREAS, the site is located on the south side of Forest Avenue between Manor Road and Raymond Place, partially within an R3-2 zoning district and partially within an R2 zoning district; and

WHEREAS, the site is an irregularly shaped lot with 75 feet of frontage on Forest Avenue, a depth ranging from 247 feet to 266 feet, and a total lot area of 20,805 sq. ft.; and

WHEREAS, the site consists of a three-story building occupied by an animal hospital (Use Group 16) with an accessory caretaker’s apartment; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 9, 1976 when, under the subject calendar number, the Board granted a variance to permit a one-story enlargement to an existing two-story building occupied as an animal hospital with an accessory caretaker’s apartment, for a term of five years; and

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

WHEREAS, most recently, on June 10, 1986, the Board granted a ten-year extension of term, which expired on March 9, 1996; and

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

WHEREAS, in support of its representation that the animal hospital has been operating continuously at the site since the expiration of the Board’s prior grant in 1996, the applicant initially submitted annual invoices for the animal hospital from 1996 through 2010; and

WHEREAS, at hearing, the Board directed the applicant to provide evidence in support of the use of the site as an animal hospital since 2010; and

WHEREAS, in response, the applicant submitted additional invoices which document the continuous use of the site as an animal hospital from the period from 2010 through 2012; and

WHEREAS, the Board finds that the evidence submitted by the applicant is sufficient to establish that the animal hospital has operated continuously at the site since the expiration of the Board’s prior extension of term grant in 1996; and

WHEREAS, the Board also directed the applicant to provide screening around the dumpster and questioned the location of the greenhouse that is shown on the previously-approved plans; and

WHEREAS, in response, the applicant submitted revised plans reflecting that a fence with a height of four feet will be installed to screen the dumpster area, and represents that the greenhouse that was depicted in the previously-approved plans was never constructed on the site; and

WHEREAS, based upon the above, the Board finds that the requested ten-year extension of term is 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, dated March 9, 1976, so that as amended this portion of the resolution shall read: “to extend the term for ten years from the date of the grant, to expire on April 3, 2022; *on condition* that all use and operations shall substantially conform to plans filed with this application marked ‘Received March 6, 2012’- eight (8) sheets; and *on further condition*:

THAT the term of the grant will expire on April 3, 2022;

THAT the above condition will be reflected on the certificate of occupancy;

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

MINUTES

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.” (Alt. 129-75)

Adopted by the Board of Standards and Appeals April 3, 2012.

286-00-BZ

APPLICANT – Law Offices of Mitchell S. Ross, for Whitewall Properties II, LLC, owner; New York Health and Racquet Club, lessee.

SUBJECT – Application January 27, 2012 – Extension of Term of a Special Permit (§73-36) for a physical culture establishment (*New York Health and Racquet Club*) located on the first and second floors of a 20-story mixed-use building, which expired on March 27, 2011; Waiver of the Rules. C6-3A/C6-4M zoning district.

PREMISES AFFECTED – 60 West 23rd Street, northeast corner of Sixth Avenue and West 23rd Street, Block 824, Lot 11, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Mitchell S. Ross.

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 special permit for a physical culture establishment (“PCE”), which expired on March 27, 2011; and

WHEREAS, a public hearing was held on this application on March 20, 2012, after due notice by publication in *The City Record*, and then to decision on April 3, 2012; and

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

WHEREAS, Community Board 5, Manhattan, states that it has no objection to this application; and

WHEREAS, the PCE is located on a corner through lot bounded by West 22nd Street to the south, Sixth Avenue to the west, and West 23rd Street to the north, partially within a C6-3A zoning district and partially within a C6-4M zoning district; and

WHEREAS, the PCE occupies a total of 38,798 sq. ft. of floor area on the first and second floor of a 20-story mixed-use

commercial/residential building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 27, 2001 when, under the subject calendar number, the Board granted a special permit for a PCE in the subject building for a term of ten years, which expired on March 27, 2011; and

WHEREAS, the applicant now seeks to extend the term of the special permit for an additional ten years; and

WHEREAS, based upon its review of the record, the Board finds 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 *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on March 27, 2001, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from March 27, 2011, to expire on March 27, 2021, *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 the term of this grant shall expire on March 27, 2021;

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

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. 101962814)

Adopted by the Board of Standards and Appeals, April 3, 2012.

148-10-BZ

APPLICANT – Eric Palatnik, P.C., for Giselle E. Salamon, owner.

SUBJECT – Application June 23, 2011 – Amendment to an approved special permit (§73-622) for the enlargement of an existing single family home, contrary to open space and floor area (§23-141) and less than the required rear yard (§23-47) and side yard (§23-461). The amendment seeks to correct open space and floor area calculations and adds a waiver to the perimeter wall height. R3-2 zoning district. PREMISES AFFECTED – 1559 East 29th Street, between Avenue P and Kings Highway, Block 7690, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins,

MINUTES

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to modify the previously approved plans for an enlargement of an existing single family home; and

WHEREAS, a public hearing was held on this application on February 7, 2012, after due notice by publication in *The City Record*, with a continued hearing on March 20, 2012, and then to decision on April 3, 2012; and

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

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of East 29th Street, between Avenue P and Kings Highway, within an R3-2 zoning district; and

WHEREAS, on November 23, 2010, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-622, to permit the enlargement of an existing single-family home, which resulted in non-compliances as to floor area ratio (“FAR”), open space ratio, rear yard, and side yards; and

WHEREAS, the applicant now seeks an amendment to correct the calculations related to FAR, open space, lot coverage, and side yard, and to include an additional waiver for the perimeter wall height; and

WHEREAS, specifically, the applicant seeks to correct the calculations it provided for the prior approval, to reflect: (1) a reduction in the floor area from 2,414 sq. ft. (0.86 FAR) to 2,308 sq. ft. (0.83 FAR); an increase in the open space from 1,490 sq. ft. (53 percent) to 1,540 sq. ft. (55 percent); (3) a decrease in the lot coverage from 1,310 sq. ft. (47 percent) to 1,236 sq. ft. (45 percent); and (4) an increase in the width of the side yard along the northern lot line from 3’-0” to 3’-6”;

and (4) an increase in the width of the side yard along the northern lot line from 3’-0” to 3’-6”;

WHEREAS, the applicant notes that all of the requested corrections reduce the degree of non-compliance approved in the original grant; and

WHEREAS, the applicant also requests an amendment to reflect the correct perimeter wall height of 22’-5” (a maximum perimeter wall height of 21’-0” is permitted); and

WHEREAS, the Board notes that the special permit under ZR § 73-622 allows a perimeter wall height to exceed the permitted height in an R3-2 zoning district, provided that the perimeter wall height is equal to or less than the perimeter wall height of an adjacent single- or two-family detached or semi-detached residence with an existing non-complying perimeter wall facing the street; and

WHEREAS, in support of the requested waiver for perimeter wall height, the applicant provided a streetscape establishing that the adjacent home to the north, 1555 East 29th Street, has a perimeter wall height of 22’-5”;

and

WHEREAS, therefore, the applicant represents that the perimeter wall of the proposed home matches the existing non-complying perimeter wall height of the adjacent home and falls

within the scope of the special permit; and

WHEREAS, the Board has determined that the applicant has submitted sufficient information to establish that the proposed home may match the pre-existing perimeter wall height of the adjacent home, which exceeds 21’-0”;

and

WHEREAS, the applicant represents that no other changes are proposed; and

WHEREAS, accordingly, the Board finds that the requested change is within the scope of the original grant and does not affect the required special permit findings; and

WHEREAS, based upon its review of the record, the Board finds that the proposed amendment is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated November 23, 2010, so that as amended this portion of the resolution shall read: “to permit the noted modifications to the BSA-approved plans; *on condition* that all work and site conditions shall comply with drawings marked “Received February 21, 2012”– (11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of approximately 2,308 sq. ft. (0.83 FAR); a minimum open space of 55 percent; a maximum lot coverage of 45 percent; a maximum perimeter wall height of 22’-5”;

a side yard with a minimum width of 3’-6” along the northern lot line; and a rear yard with a minimum depth of 20’-0”, as illustrated on the BSA-approved plans

THAT all conditions from the prior resolution not specifically waived by the Board shall 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 Application No. 320155880)

Adopted by the Board of Standards and Appeals, April 3, 2012.

319-53-BZ
APPLICANT – Ficara & Associates, P.C., by Majed El Jamal, for 22nd Street Realty LLC, owner.

SUBJECT – Application August 16, 2011 – Extension of Term (§11-411) for the continued operation of an automotive repair shop with no body work which expired on January 31, 2011; Waiver of the Rules. R5 zoning district. PREMISES AFFECTED – 1135 East 22nd Street, northwest corner of Eastchester Road, Block 4900, Lot 12, Borough of Bronx.

COMMUNITY BOARD #12BX
APPEARANCES –

For Applicant: John Anzalone.

ACTION OF THE BOARD – Laid over to May 8, 2012, at 10 A.M., for continued hearing.

MINUTES

808-55-BZ

APPLICANT – Sheldon Lobel, P.C., for 35 Bell Realty Inc., owner; Cumberland Farms, Inc., lessee.

SUBJECT – Application February 14, 2012 – Extension of Term (§11-411) for the continued operation of a gasoline service station (*Gulf*) with accessory convenience store which expired on March 27, 2012; Waiver of the Rules. C2-2/R4 zoning district.

PREMISES AFFECTED – 35-04 Bell Boulevard, southwest corner of the intersection formed by Bell Boulevard and 35th Avenue, Block 6169, Lot 6, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: John Rinesmith.

ACTION OF THE BOARD – Laid over to May 1, 2012, at 10 A.M., for continued hearing.

433-61-BZ

APPLICANT – Harold Weinberg, for Shin J. Yoo, owner.

SUBJECT – Application November 28, 2012 – Extension of Term (§11-411) of a variance which permitted a one story and mezzanine retail building, contrary to use regulations; Waiver of the Rules. R7A zoning district.

PREMISES AFFECTED – 1702-12 East 16th Street, between Quentin Road and Avenue R. Block 6798, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 8, 2012, at 10 A.M., for adjourned hearing.

997-84-BZ

APPLICANT – Akerman Senterfitt, for 222 Union Associates, owner; Central Parking System of New York, Inc., lessee.

SUBJECT – Application February 6, 2012 – Extension of Time to obtain a Certificate of Occupancy for an existing six story public parking garage with an automobile rental establishment which expired on June 4, 2008; waiver of the rules. R6A zoning district.

PREMISES AFFECTED – 800 Union Street, southside of Union Street between 6th and 7th Avenues, Block 957, Lot 29, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Jessica A. Loeser.

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 May 8, 2012, at 10 A.M., for decision, hearing closed.

64-96-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Michael Koloniaris and Nichol Koloniaris, owners.

SUBJECT – Application January 10, 2012 – Extension of Term for the continued operation of a UG16B automotive repair shop (*Meniko Autoworks, Ltd.*) which expired on December 11, 2011. C1-2/R3A zoning district.

PREMISES AFFECTED – 148-20 Cross Island Parkway, East south of 14th Avenue, Block 4645, Lot 3, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Laid over to May 1, 2012, at 10 A.M., for continued hearing.

256-02-BZ

APPLICANT – Goldman Harris LLC, for 160 Imlay Street Real Estate, owner.

SUBJECT – Application February 10, 2012 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the re-use of a vacant six story manufacturing building, and the addition of three floors, for residential (UG2) use, which expired on March 18, 2012. M2-1 zoning district.

PREMISES AFFECTED – 160 Imlay Street, bounded by Imlay, Verona and Commerce Streets and Atlantic Basin, Block 515, Lot 75, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Engene Travors.

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 May 1, 2012, at 10 A.M., for decision, hearing closed.

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 continue 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

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Appeal granted.

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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 appeal requesting a Board determination that the owner of the premises has obtained the right to complete construction of a three-story three-family residential building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on December 13, 2011, after due notice by publication in *The City Record*, with continued hearings on February 28, 2012 and March 20, 2012, and then to decision on April 3, 2012; 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 site is located on 176th Street between Jamaica Avenue and 90th Avenue and has a lot area of 5,280 sq. ft.; and

WHEREAS, the applicant proposes to develop the site with a three-story three-family residential building (Use Group 2), with approximately 10,623 sq. ft. of floor area (1.72 FAR) (the “Building”); and

WHEREAS, the applicant states that the subject site is one of five tax lots (comprising two zoning lots) that were planned to be developed with a total of five three-story, three-family residential buildings; and

WHEREAS, the applicant notes that the Board previously granted an extension of time to complete construction pursuant to ZR § 11-332 for the other four buildings (BSA Cal. Nos. 283-09-BZY through 286-09-BZY); and

WHEREAS, the applicant further notes that two of the adjacent buildings for which the Board granted an extension of time to complete construction under BSA Cal. Nos. 283-09-BZY through 286-09-BZY are located on the subject zoning lot (the “Adjacent Buildings”); and

WHEREAS, on October 7, 2008, under BSA Cal. No. 230-07-BZY, the Board denied an application for an extension of time to complete construction for the subject building pursuant to ZR § 11-331, predicated on the Department of Buildings’ (“DOB”) determination that the permit was invalid; and

WHEREAS, specifically, the Board found that, pursuant to DOB’s determination, the applicant did not meet the ZR § 11-331 threshold requirement that the “building permit has been lawfully issued” prior to the effective date of the amendment to the Zoning Resolution; and

WHEREAS, the applicant represents that it has since resolved all objections to the permit with DOB, and now seeks a determination that the owner has obtained the right to complete construction pursuant to the common law doctrine of vested rights; and

WHEREAS, the subject premises is currently located

within an R4-1 zoning district, but was formerly located within an R6 zoning district; and

WHEREAS, on July 5, 2007, DOB issued New Building Permit No. 402568431-01-NB (the “NB Permit”) for the Building; and

WHEREAS, however, on September 10, 2007 (the “Enactment Date”), the City Council voted to adopt the Jamaica Rezoning, which rezoned the site to R4-1, as noted above; and

WHEREAS, because the site is now within an R4-1 district, the Building would not comply with the new zoning restrictions; and

WHEREAS, as a threshold matter in determining this appeal, the Board must find that the construction was conducted pursuant to valid permits; and

WHEREAS, the Board notes that, as discussed in its denial of BSA Cal. No. 230-07-BZY, DOB revoked the NB Permit on June 17, 2008 based on an outstanding objection concerning the noncompliance of the plans with the required dimensions of an inner court; and

WHEREAS, the applicant states that it has since resolved all objections pertaining to the inner court, and DOB has submitted an Objection sheet dated February 4, 2009, indicating that the objection related to the inner court (ZR § 23-85) has been removed; and

WHEREAS, by letter dated November 3, 2011, DOB rescinded the permit revocation; and

WHEREAS, by letter dated November 10, 2011, DOB states that the NB Permit was lawfully issued, authorizing construction of the Building prior to the Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the NB Permit was lawfully issued to the owner of the subject premises prior to the Enactment Date; and

WHEREAS, the Board notes that when work proceeds under a valid permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10 (2d Dept. 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner’s rights under the prior ordinance are deemed vested “and will not be disturbed where enforcement [of new zoning requirements] would cause ‘serious loss’ to the owner,” and “where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance”; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) “there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess ‘a vested right’. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action”; and

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WHEREAS, as to substantial construction, the applicant states that prior to the Enactment Date, the owner had completed the following work at the site: 100 percent of the excavation work and approximately 35 percent of the foundation work, including the pouring of concrete for footings and foundation walls; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: a foundation plan, construction contracts, an affidavit from the owner, concrete pour tickets, and photographs of the site showing the amount of work completed prior to the Enactment Date; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed before the Enactment Date and the documentation submitted in support of these representations, and agrees that it establishes that substantial work was performed; and

WHEREAS, the Board concludes that, given the size of the site, and based upon a comparison of the type and amount of work completed in this case with the type and amount of work discussed by New York State courts, a significant amount of work was performed at the site during the relevant period; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 *et seq.*, soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant states that prior to the Enactment Date, the owner expended \$32,273, including hard and soft costs and irrevocable commitments, out of \$250,000 budgeted for construction of the Building; and

WHEREAS, as proof of the expenditures, the applicant has submitted construction contracts, copies of cancelled checks, invoices, and accounting tables; and

WHEREAS, thus, the expenditures up to the Enactment Date represent approximately 13 percent of the projected total cost; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, again, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as to serious loss, the Board considers not only whether certain improvements and expenditures could not be recouped under the new zoning, but also considerations such as the diminution in income that would occur if the new zoning were imposed and the reduction in value between the proposed building and the building permitted under the new zoning; and

WHEREAS, the applicant states that if the owner is not permitted to vest under the former R6 zoning it would be impossible to develop the remainder of the zoning lot without demolishing the Adjacent Buildings, which are located on the subject zoning lot; and

WHEREAS, accordingly, the applicant represents that the inability to vest under the former R6 zoning would result

in the loss of the entire Building; and

WHEREAS, the Board agrees that the inability to construct any building on the subject zoning lot under the R4-1 regulations without demolishing the Adjacent Buildings, constitutes a serious economic loss, and that the evidence submitted by the applicant supports this conclusion; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed, the expenditures made, and serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Buildings had accrued to the owner of the premises as of the Enactment Date.

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a reinstatement of New Building Permit No. 402568431-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, April 3, 2012.

119-11-A

APPLICANT – Bryan Cave LLP, for Kimball Group, LLC, owner.

SUBJECT – Application August 17, 2011 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under prior zoning regulations in effect on July 14, 2005. R4 zoning district.

PREMISES AFFECTED – 2230-2234 Kimball Street, between Avenue U and Avenue V, Block 8556, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Margery Perlmutter.

Additional (neither for or against): Joan Byrnes – Senator Golden.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Recused: Commissioner Hinkson.....1

ACTION OF THE BOARD – Laid over to May 8, 2012, at 10 A.M., for decision, hearing closed.

155-11-A

APPLICANT – Sheldon Lobel, P.C., for 10 Stratford Associates, owners.

SUBJECT – Application October 3, 2011 – Appeal seeking a common law vested right to continue construction commenced under the prior R6 zoning district regulations. R3X zoning district.

PREMISES AFFECTED – 480 Stratford Road, west side of

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Stratford Road, through to Coney Island Avenue between Dorchester and Ditmas Avenue, Block 5174, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Josh Rinesmith.

For Opposition: Joel A. Siegel.

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 May 8, 2012, at 10 A.M., for decision, hearing closed.

162-11-A

APPLICANT – Akerman Senterfitt, LLP, for 179 Ludlow Holding LLC, owners.

SUBJECT – Application October 17, 2011 – Appeal seeking a common law vested right to continue construction commenced under prior C6-1 zoning district regulations. C4-4A zoning district.

PREMISES AFFECTED – 179 Ludlow Street, western side of Ludlow on a block bounded by Houston to the north and Stanton to the south, Block 412, Lot 26, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Jessica a. Loeser.

ACTION OF THE BOARD – Laid over to May 1, 2012, at 10 A.M., for continued hearing.

173-11-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Southside Manhattan View LLC, owner.

SUBJECT – Application November 7, 2011 – Appeal seeking a determination that the owner of the premises has acquired a common law vested right to complete construction under the prior R4 zoning. R4-1 Zoning district.

PREMISES AFFECTED – 68-10 58th Avenue, south side of 58th Avenue, 80’ east of intersection of 58th Avenue and Brown Place, Block 2777, Lot 11, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Todd Dale and Panagis Geopaopoulos.

ACTION OF THE BOARD – Laid over to May 1, 2012, at 10 A.M., for continued hearing.

25-12-A

APPLICANT – Slater & Beckerman, LLP for F.B Capital Inc., owners

SUBJECT – Application February 2, 2012 – Appeal challenging a determination by the Department of Buildings not to revoke the permit associated with the reconstruction

of a building, which includes construction in the required rear yard and does not comply with the requirements of ZR §54-41. R8B (LH-1A) Zoning District.

PREMISES AFFECTED – 110 East 70th Street, south side of East 70th Street, between Park Avenue and Lexington Avenue, block 1404, Lot 67, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Carole Slater, Cornelius Dennis and Matt Markowitz.

For Opposition: Deirdre Carson.

For Administration: Amandus Derr of Department of Buildings.

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 May 15, 2012, at 10 A.M., for decision, hearing closed.

27-12-A

APPLICANT – Greenberg Traurig, LLP, for F.B. Capital, LLC, owner.

SUBJECT – Application February 6, 2012 – Appeal challenging a determination by the Department of Buildings that more than 75 percent of the floor area was demolished and the building was not a single-family home so that reconstruction of the non-complying building was not permitted pursuant to ZR §54-41. R8B (LH-1A) Zoning District.

PREMISES AFFECTED – 110 East 70th Street, north side of East 70th Street, 125’ east of Park Avenue and 260’ west of Lexington Avenue, Block 1404, Lot 67, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Deirdre Carson.

For Administration: Amandus Derr of Department of Buildings.

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 May 15, 2012, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, APRIL 3, 2012
1:30 P.M.**

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

ZONING CALENDAR

31-10-BZ

CEQR #10-BSA-050Q

APPLICANT – Eric Palatnik, P.C., for 85-15 Queens Realty, LLC, owner.

SUBJECT – Application March 16, 2010 – Variance (§72-21) to allow for a commercial building, contrary to use (§22-00), lot coverage (§23-141), front yard (§23-45), side yard (§23-464), rear yard (§33-283), height (§23-631) and location of uses within a building (§32-431) regulations. C1-2/R6, C2-3/R6, C1-2/R7A, R5 zoning districts.

PREMISES AFFECTED – 85-15 Queens Boulevard, aka 51-35 Reeder Street, north side of Queens Boulevard, between Broadway and Reeder Street, Block 1549, Lot 28, 41, Borough of Queens.

COMMUNITY BOARD #4Q

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 Queens Borough Commissioner, dated September 13, 2011, acting on Department of Buildings Application No. 401400239, reads in pertinent part:

1. Proposed commercial use for portion of lot 41 in R5 district (parking @ cellar) is contrary to ZR Section 22-00;
2. Proposed parking contrary to ZR Section 36-21; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site located partially within a C1-2 (R6) zoning district, a C2-3 (R6) zoning district, a C1-2 (R7A) zoning district, and an R5 zoning district, a two-story and mezzanine commercial building with an accessory parking garage at the cellar level, which does not comply with the zoning regulations for use or parking, contrary to ZR §§ 22-00 and 36-21; and

WHEREAS, a public hearing was held on this application on January 11, 2011, after due notice by publication in the *City Record*, with continued hearings on April 12, 2011, August 16, 2011, September 27, 2011 and December 13, 2011, and then to decision on April 3, 2012; and

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

WHEREAS, Community Board 4, Queens, recommended conditional approval of a prior iteration of the application, described below, which requested additional waivers related to bulk; and

WHEREAS, City Council Member Daniel Dromm recommends approval of this application; and

WHEREAS, a member of the community provided oral testimony in opposition to the prior iteration of the application; and

WHEREAS, the site is located on an irregularly-shaped through lot with 200 feet of frontage on Queens Boulevard to the south, 170 feet of frontage on Broadway to the east, and 150 feet of frontage on Reeder Street to the west, with a total lot area of 35,564 sq. ft.; and

WHEREAS, the site is located within four separate zoning districts: (1) 25,904 sq. ft. of the site is within a C1-2 (R6) zoning district; (2) 5,844 sq. ft. of the site is within a C2-3 (R6) zoning district; (3) 3,582 sq. ft. of the site is within an R5 zoning district; and (4) 233.5 sq. ft. of the site is within a C1-2 (R7A) zoning district; and

WHEREAS, the site comprises two tax lots; Lot 41, which comprises the western portion of the site at the corner of Reeder Street and Queens Boulevard, is occupied by a one-story eating and drinking establishment (a Wendy's restaurant) which is proposed to be demolished; and Lot 28 which comprises the eastern portion of the site at the corner of Broadway and Queens Boulevard, is currently vacant; and

WHEREAS, the applicant submitted a report from a title company which states that, according to Department of Finance records, there have been no changes to the tax map since 1961 and therefore the dimensions of the lots have remained the same since that time; and

WHEREAS, the applicant proposes to construct a two-story and mezzanine commercial building with a floor area of 63,894 sq. ft. (1.80 FAR), with retail (Use Group 6) at the first floor and a food store (Use Group 6) at the first floor mezzanine and second floor, a height of 48 feet, and 111 accessory parking spaces (and 11 queuing spaces) at the cellar level; and

WHEREAS, the proposal will have the following non-complying parameters: 111 accessory parking spaces (and 11 queuing spaces) (the minimum number of accessory parking spaces required for the proposed building is 264); and accessory parking located in the R5 portion of the site (commercial use is not permitted in the R5 district); and

WHEREAS, the applicant initially proposed a five-story commercial building with a floor area of 121,339 sq. ft. (3.41 FAR), a total height of 88 feet, and 251 accessory parking spaces, to be occupied by Use Group 6 retail use at the first, second, and third floors, and accessory parking at the cellar, fourth, and fifth floors; and

WHEREAS, the original proposal complied with the required number of parking spaces under ZR § 36-21, but necessitated a use variance for the portion of the building

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located in the R5 district, and necessitated bulk waivers associated with floor area, lot coverage, front yard, side yard, rear yard, height, and parking located more than 23'-0" above curb level; and

WHEREAS, the Board expressed concern about the size of the proposed building and the extent of the requested variance, and directed the applicant to revise the application to provide the maximum number of parking spaces within a building that complied with the underlying bulk regulations; and

WHEREAS, in response, the applicant revised the application to provide an interim proposal for a two-story and mezzanine commercial building with a 91-space (and nine queuing spaces) accessory parking garage at the cellar level located entirely within the commercial portion of the zoning lot; the interim proposal complied with all underlying zoning regulations with the exception of the minimum number of parking spaces; and

WHEREAS, in response to additional concerns raised by the Board regarding the number of parking spaces provided, the applicant revised the plans to reflect the subject proposal, which extends the cellar level accessory parking garage into the R5 portion of the zoning lot, thereby providing 20 additional parking spaces but triggering the need for the requested use waiver; and

WHEREAS, because the proposed accessory commercial parking is not permitted within the R5 portion of the site and because the building does not provide the required number of accessory parking spaces, the applicant requests the subject variance; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the presence of an MTA subway tunnel below the site; (2) the high water table at the site; (3) the location within four different zoning districts; and (4) the irregular shape of the site; and

WHEREAS, as to the presence of the MTA subway tunnel, the applicant submitted an engineer's report which states that an MTA subway tunnel easement runs beneath the northeast corner of the subject site; and

WHEREAS, the applicant states that the subway tunnel is a "cut and cover" style tunnel, and is therefore located very close to the surface, and there is a subway station (the Grand Avenue – Newtown station) located directly below the site; and

WHEREAS, the applicant represents that there are practical difficulties associated with developing directly over the subway tunnel and subway station; and

WHEREAS, specifically, the applicant states that the portion of the proposed underground parking structure adjacent to the subway tunnel easement must be designed to safely support all of the imposed loads so as to protect the existing subway structure; and

WHEREAS, the applicant notes that the presence of the subway tunnel and easement also requires the owner to file plans with the MTA and to comply with all restrictions placed on the work, as the MTA will not allow any potential for disturbance of the existing subway structure; and

WHEREAS, the engineer's reports submitted by the applicant states that, due to the existing subway tunnel, a temporary soil bracing system will be required for the proposed excavation to achieve the planned parking level bottom (mat foundation slab), and that heavy steel HP Soldier Piles supported by steel walers, raker bracing, and wood lagging should be installed along the entire perimeter of the proposed excavation site so that the building would bypass the tunnel; and

WHEREAS, the applicant states that the location of the subway tunnel and subway station preclude the use of a portion of the site for underground parking or for cellar floor area, and therefore the proposed underground parking structure must be located to the west of the subway easement, which is approximately 15 feet away from the subway tunnel foundation wall; and

WHEREAS as to the high water table on the site, the engineer's report submitted by the applicant states that the soil borings performed on the site encountered groundwater at depths ranging from 9'-0" to 11'-6" below grade, and groundwater is expected to be encountered during the excavation for the construction of the proposed building and foundations; and

WHEREAS, the engineer's report states that, due to the location of the groundwater, extensive temporary and permanent site dewatering will be required for the entire site; and

WHEREAS, the engineer's report further states that possible dewatering methods would include well points, deep wells, sumps and pumps, and that the dewatering must be evaluated to ensure that it will not adversely affect the structural stability and possible settlement of the adjacent buildings and the underground subway structure; and

WHEREAS, the applicant states that the shallow groundwater on the site makes the construction of a sub-cellar for additional parking cost prohibitive; and

WHEREAS, as to the location of the zoning district boundaries, the applicant states that the site is located within four separate zoning districts and while the majority of the site is located within commercial zoning districts, there is a 3,582 sq. ft. portion located at the northwest corner of the site, comprising approximately ten percent of the site, which is entirely within an R5 zoning district; and

WHEREAS, the applicant states that the site is also irregularly shaped, as the lot has three separate frontages with an irregular angle at the intersection of Queens Boulevard and Reeder Street, and the rear of the site includes a rectangular protrusion which results in the lot having a total of ten sides; and

WHEREAS, the applicant represents that the irregular shape of the site, and the location of the zoning district boundaries result in design constraints which contribute to the hardship of constructing an as-of-right building on the site; and

WHEREAS, the Board is not persuaded by the assertions of unnecessary hardship or practical difficulty caused by the zoning lot boundaries or the irregular shape of the site, and finds that the size of the lot, at 35,564 sq. ft., is large enough to compensate for such conditions; and

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WHEREAS, however, based upon the above, the Board finds that the location of the subway tunnel and the high water table are unique 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 analyzing the following scenarios: (1) an as-of-right scenario consisting of a three-story and mezzanine commercial building with 59,300 sq. ft. of rentable retail space and a total of 227 parking spaces with 117 below grade spaces and 110 above grade spaces; (2) an identical as-of-right scenario with the ground floor raised two feet above grade (and a corresponding decrease in the height of the cellar level); (3) an as-of-right retail scenario consisting of a four-story commercial building with 46,594 sq. ft. of rentable retail space and a total of 174 parking spaces, located above grade; and (4) the proposed two-story and mezzanine commercial building with retail (Use Group 6) at the first floor, a food store (Use Group 6) at the first floor mezzanine and second floor, and 111 accessory parking spaces (and 11 queuing spaces) in the cellar; and

WHEREAS, the applicant concluded that the proposed scenario was the only scenario of the four analyzed that would realize a reasonable return; and

WHEREAS, at hearing, the Board directed the applicant to analyze a lesser variance scenario consisting of the addition of 32 parking stackers to the accessory cellar level garage to increase the number of parking spaces provided at the site; and

WHEREAS, in response, the applicant provided a revised financial analysis which concluded that the lesser variance scenario would not realize a reasonable return because the introduction of 32 parking stackers and the need for additional ceiling height to accommodate the stackers significantly impacts the below grade sub-surface costs; and

WHEREAS, based upon its review of the submissions, the Board has determined that because of the subject lot'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 development 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 Board notes that the modified proposal only seeks to reduce the number of required parking spaces and to allow a portion of the accessory parking lot to be located within the R5 zoning district; and

WHEREAS, the applicant states that the proposed retail space and food store are located entirely within the commercial portion of the zoning lot and are permitted as-of-right, and that the cellar level accessory garage is permitted as-of-right on all but the 3,582 sq. ft. portion of the site located within an R5 zoning district, which only accounts for approximately ten percent of the total lot area; and

WHEREAS, the applicant further states that the proposed accessory parking garage within the R5 portion of the site will be located entirely below grade, and the R5 portion of the site

will consist of a landscaped area above grade; and

WHEREAS, accordingly, the applicant represents that the proposed use of the R5 portion of the site for below grade accessory commercial parking will not have any negative impacts on the surrounding neighborhood; and

WHEREAS, as to the reduction in parking, the applicant states that the proposed building provides sufficient parking to accommodate the anticipated parking demand at the site; and

WHEREAS, the applicant submitted a traffic study which concluded that the proposed building would require a total of 48 parking spaces during the weekday peak parking demand time periods and 99 parking spaces during the Saturday peak parking demand time periods, and therefore the 111 on-site parking spaces (and 11 queuing spaces) proposed for the site will be adequate to accommodate the parking demand for the proposal; and

WHEREAS, the applicant represents that parking demand will also be lessened because the site is well served by mass transit, as the Grand Avenue/Newtown stop on the M and R subway lines is located at the subject intersection, and both Queens Boulevard and Broadway are serviced by MTA bus routes; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the pre-existing unique physical conditions cited above; and

WHEREAS, as discussed above, the applicant initially requested a five-story commercial building with a floor area of 121,339 sq. ft. (3.41 FAR), a total height of 88 feet, and 251 accessory parking spaces, which complied with the required number of parking spaces under ZR § 36-21, but necessitated a use variance for the portion of the building located in the R5 district, and necessitated bulk waivers associated with floor area, lot coverage, front yard, side yard, rear yard, height, and parking located more than 23'-0" above curb level; and

WHEREAS, in response to concerns raised by the Board, the applicant revised its plans on several occasions, ultimately providing the subject proposal significantly reducing the size of the building and eliminating the previously requested bulk waivers; and

WHEREAS, the Board directed the applicant to revise the applicant to eliminate the request for a reduction in the required number of parking spaces; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant

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information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 10BSA050Q, dated March 29, 2012; and

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

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

WHEREAS, a Restrictive Declaration for an archaeological study was executed on March 16, 2012 and filed for recording on March 21, 2012; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site located partially within a C1-2 (R6) zoning district, a C2-3 (R6) zoning district, a C1-2 (R7A) zoning district, and an R5 zoning district, a two-story and mezzanine commercial building with an accessory parking garage at the cellar level, which does not comply with the zoning regulations for use or parking, contrary to ZR §§ 22-00 and 36-21, *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 November 1, 2011” – ten (10) sheets, and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of 63,894 sq. ft. (1.80 FAR), a height of 48 feet, and 111 accessory parking spaces (and 11 queuing spaces) at the cellar level, as indicated on the BSA-approved plans;

THAT landscaping will be planted and maintained as per the BSA-approved plans;

THAT a permit shall not be issued for any grading, excavation, foundation or other permit which involves soil disturbance until, pursuant to the Restrictive Declaration, the LPC has issued to DOB, as applicable, either a Notice of No Objection, Notice to Proceed, Notice of Satisfaction, or Final Notice of Satisfaction;

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

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

THAT the approved plans will 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, April 3, 2012.

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 – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, April 3, 2012.

182-11-BZ

CEQR #12-BSA-044K

APPLICANT – Sheldon Lobel, P.C., for 775 Broadway Acquisition LLC c/o The Jackson Group LLC, owner; 777 Broadway Fitness Group, lessee.

SUBJECT – Application December 5, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*). C4-3 zoning district.

PREMISES AFFECTED – 777 Broadway, located on the east corner of the intersection formed by Broadway and Summer Place. Block 3131, Lot 6. Borough of Brooklyn.

COMMUNITY BOARD #4BK

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

MINUTES

Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 15, 2011, acting on Department of Buildings Application No. 320371414, reads in pertinent part:

Proposed physical culture establishment is not permitted as-of-right in C4-3 zoning district pursuant to ZR Section 32-10 and therefore requires a special permit from the Board of Standards and Appeals as per 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 C4-3 zoning district, the operation of a physical culture establishment (PCE) on the first, second, and third floors of a three-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 20, 2012, after due notice by publication in *The City Record*, and then to decision on April 3, 2012; and

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

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

WHEREAS, the subject site is located on the east corner of the intersection formed by Broadway and Sumner Place, within a C4-3 zoning district; and

WHEREAS, the site is a corner lot with 75 feet of frontage on Broadway, 150 feet of frontage on Sumner Place, and a total lot area of 12,500 sq. ft.; and

WHEREAS, the applicant proposes to occupy 18,705 sq. ft. of floor area on the first, second, and third floors; and

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

WHEREAS, the applicant states that the hours of operation for the proposed PCE will be 24 hours a day, seven days a week; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; 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. 12BSA044K, dated December 1, 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 C4-3 zoning district, the operation of a physical culture establishment (PCE) on the first, second, and third floors of a three-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received February 9, 2012” - (6) sheets, and *on further condition*:

THAT the term of this grant will expire on April 3, 2022;

THAT there will 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 must be performed by New York State licensed massage therapists;

THAT the site will be maintained free of graffiti;

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

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

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

THAT the proposed building will be reviewed by DOB for compliance with all bulk regulations of the Zoning Resolution;

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THAT substantial construction will 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 will 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, April 3, 2012.

197-11-BZ

CEQR #12-BSA-060K

APPLICANT – Sheldon Lobel, P.C., for 329 Wyckoff Realty, LLC, owner; Wyckoff Fitness Group, LLC, lessee. SUBJECT – Application December 30, 2011 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Planet Fitness*) on a portion of the first and second floors of an existing two-story building. C4-3 zoning districts.

PREMISES AFFECTED – 329 Wyckoff Avenue, northeast corner of the intersection formed by Wyckoff and Myrtle Avenues and Palmetto Street, Block 3444, Lot 33, Borough of Queens.

COMMUNITY BOARD #5Q

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 Montanez

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated December 2, 2011, acting on Department of Buildings Application No. 420482524, reads in pertinent part:

Proposed physical culture establishment is not permitted as of right in C4-3 zoning district pursuant to ZR Section 32-10 and therefore requires a special permit from the Board of Standards and Appeals per 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 C4-3 zoning district, the operation of a physical culture establishment (PCE) at a portion of the first floor and the entire second floor of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 28, 2012, after due notice by

publication in *The City Record*, with a continued hearing on March 20, 2012, and then to decision on April 3, 2012; and

WHEREAS, Community Board 5, Queens, recommends approval of this application, with the condition that the site be kept free of graffiti; and

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

WHEREAS, the subject site is located on the intersection formed by Wyckoff Avenue, Myrtle Avenue, and Palmetto Street, within a C4-3 zoning district; and

WHEREAS, the site has approximately 115 feet of frontage on Wyckoff Avenue, 14 feet of frontage on Myrtle Avenue, 123 feet of frontage on Palmetto Street, and a total lot area of 16,205 sq. ft.; and

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

WHEREAS, the proposed PCE will occupy a total of 17,385 sq. ft. of floor area on a portion of the first floor and the entire second floor; and

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

WHEREAS, the applicant states that the proposed PCE will operate 24 hours per day, seven days per week; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; 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.12BSA060K, dated December 29, 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;

MINUTES

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 C4-3 zoning district, the operation of a physical culture establishment at a portion of the first floor and the entire second floor of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received February 14, 2012"-(4) sheets, and *on further condition*:

THAT the term of this grant will expire on April 3, 2022;

THAT there will 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 must be performed by New York State licensed massage therapists;

THAT the site will be maintained free of graffiti;

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

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

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

THAT the proposed building will be reviewed by DOB for compliance with all bulk regulations of the Zoning Resolution;

THAT substantial construction will 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 will 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, April

3, 2012.

93-11-BZ

APPLICANT – Moshe M. Friedman, P.E., for Yeshiva Ore Mordechai, owners.

SUBJECT – Application June 23, 2011 – Special Permit (§73-19) to allow the conversion of the third and fourth floors in an existing four-story factory and warehouse building to a Use Group 3 school (*Yeshiva Ore Mordechai*). M1-1 zoning district

PREMISES AFFECTED – 1536 62nd Street, aka 1535 63rd Street, Block 5530, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #4BK

APPEARANCES –

For Applicant: Moshe M. Friedman, Y. Kaufman, Jonathan Lowy and Soscher Weber.

For Opposition: Harry Thomasson, Rocco Mesiti, Dominick Colasanto, Thomas Colasanto, Louis Campanella, Alex Caperna and Steven Migliaccio.

For Administration: Anthony Scaduto of Fire Department.

ACTION OF THE BOARD – Laid over to June 19, 2012, at 1:30 P.M., for continued hearing.

104-11-BZ

APPLICANT – Eric Palatnik, P.C., for Leonard Gamss, owner.

SUBJECT – Application July 25, 2011 – Special Permit (§73-622) for the legalization of an enlargement to an existing single family home, contrary to floor area, lot coverage and open space (§23-141(b)) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 1936 East 26th Street, between Avenues S and T, Block 7304, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to May 8, 2012, at 1:30 P.M., for adjourned hearing.

107-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation Yeshiva Bais Yitzchok, owners.

SUBJECT – Application August 3, 2011 – Variance (§72-21) to permit the enlargement of a synagogue (*Congregation Yeshiva Bais Yitzchok*) contrary to the bulk requirements for community facility buildings. R4-1 district.

PREMISES AFFECTED – 1643 East 21st Street, east side of 21st Street between Avenue O and P, Block 6768, Lot 84, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Jordan Most, Elly Kleinman and Philip Ort.

ACTION OF THE BOARD – Laid over to May 15, 2012, at 1:30 P.M., for continued hearing.

MINUTES

129-11-BZ

APPLICANT – Jeffrey Chester, Esq. GSHLLP, for Carroll Street One LLC, owner.

SUBJECT – Application September 2, 2011 – Variance (§72-21) to allow for the construction of a residential building, contrary to use regulations (§42-00). M1-2 zoning district.

PREMISES AFFECTED – 465 Carroll Street, north side of Carroll Street, 100' from the corner of 3rd Avenue. Block 447, Lot 43. Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 8, 2012, at 1:30 P.M., for deferred decision.

169-11-BZ

APPLICANT – Eric Palatnik, P.C., for Shlomo Vizgan, owner.

SUBJECT – Application October 27, 2011– Special Permit (§73-622) to allow the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141(b)); side yards (§23-461(a)) and less than the required rear yard (§23-47). R-4 zoning district.

PREMISES AFFECTED – 2257 East 14th Street, between Avenue V and Gravesend Neck Road, Block 7375, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

195-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Harriet Mandalaoui and David Mandalaoui, owners.

SUBJECT – Application December 22, 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(b)); side yard (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 2070 East 21st Street, west side of East 21st Street, between Avenue S and Avenue T, Block 7299, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

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

22-12-BZ

APPLICANT – Francis R. Angelino, Esq., for Lerad Company, owner.

SUBJECT – Application February 1, 2012 – Special Permit (§73-36) to allow the enlargement of an existing Physical Culture Establishment (*SoulCycle*).

PREMISES AFFECTED – 1470 Third Avenue, northwest corner of East 83rd Street and Third Avenue, Block 1512, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Francis R. Angelino.

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 May 8, 2012 at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

*CORRECTION

This resolution adopted on March 20, 2012, under Calendar No. 158-11-BZ and printed in Volume 97, Bulletin Nos. 12-13, is hereby corrected to read as follows:

158-11-BZ

CEQR #12-BSA-030K

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 allow a physical culture establishment (*Blink*). 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

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Negative:.....0

Absent: Commissioner Ottley-Brown.....1

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 26, 2011, acting on Department of Buildings Application No. 320243544, reads in pertinent part:

Proposed physical culture establishment in a C4-4A zoning district is contrary to Section 32-10 ZR and requires a special permit from the BSA (73-36 ZR); and

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

WHEREAS, a public hearing was held on this application on December 13, 2011, after due notice by publication in *The City Record*, with a continued hearing on February 28, 2012, and then to decision on March 20, 2012; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

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

WHEREAS, the subject site is an irregular-shaped through lot bounded by Hillel Place to the north, Nostrand Avenue to the east, and Campus Road to the south, within a C4-4A zoning district; and

WHEREAS, the site has 31.2 feet of frontage on Hillel Place, 120 feet of frontage on Nostrand Avenue, 55.1 feet of

frontage on Campus Road, and a total lot area of 12,234 sq. ft.; and

WHEREAS, the subject site is currently vacant; and

WHEREAS, the applicant proposes to construct a three-story commercial building on the site, with the proposed PCE occupying 15,981 sq. ft. of floor area on a portion of the first floor and the entire second and third floors; and

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

WHEREAS, the applicant states that the hours of operation for the proposed PCE will be: 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 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. 12BSA030K, dated October 10, 2011; and

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

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

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

MINUTES

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 C4-4A zoning district, the operation of a physical culture establishment at a portion of the first floor and the entire second and third floors of a three-story commercial building, contrary to ZR §32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received October 11, 2011” - (4) sheets and “Received November 29, 2011” - (1) sheet, and *on further condition*:

THAT the term of this grant will expire on March 20, 2022;

THAT there will 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 must be performed by New York State licensed massage therapists;

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

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

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

THAT the proposed building will be reviewed by DOB for compliance with all bulk regulations of the Zoning Resolution;

THAT substantial construction will 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 will 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, March 20, 2012.

***The resolution has been revised to correct the Plans Dates which read: ...“Received October 10, 2011-(4) sheets”... now reads: ...“October 11, 2011-(4) sheets”. Corrected in Bulletin No. 15, Vol. 97, dated April 11, 2012.**