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167-12-A

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168-12-A

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169-12-A

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170-12-A

24-28 Market Street, southeast intersection of Market Street and Henry Street, Block 275, Lot(s) 20, Borough of **Manhattan, Community Board: 3**. Appeal from Department of Buildings' determination that signs are not entitled to continued non-conforming use status as advertising signs, pursuant to Z.R.§52-731. R7-2 district.

171-12-A

Cross Bronx Expressway E/O Sheridan, , Block 0, Lot(s) 0, Borough of **Bronx, Community Board: 09**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. R7-1 district.

172-12-A

Cross Bronx Expressway & Bronx River, , Block 3904, Lot(s) 1, Borough of **Bronx, Community Board: 06**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. C8-1 district.

173-12-A

Cross Bronx Expressway E/O Bronx River & Sheridan, , Block 3904, Lot(s) 1, Borough of **Bronx, Community Board: 06**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. C8-1 district.

174-12-A

I-95 & Hutchinson Parkway, , Block 4411, Lot(s) 1, Borough of **Bronx, Community Board: 11**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. R3-2 district.

175-12-A

I-95 & Hutchinson Parkway, , Block 4411, Lot(s) 1, Borough of **Bronx, Community Board: 11**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. R3-2 district.

176-12-A

Bruckner Boulevard & Hunts Point Avenue, , Block 2734, Lot(s) 30, Borough of **Bronx, Community Board: 02**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. M1-2 (HP) district.

177-12-A

Bruckner Boulevard & Hunts Point Avenue, , Block 2734, Lot(s) 30, Borough of **Bronx, Community Board: 02**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. M1-2 (HP) district.

178-12-A

Bruckner Expressway N/O 156th Street, Block 2730, Lot(s) 101, Borough of **Bronx, Community Board: 02**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. M1-2 district.

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179-12-A

Bruckner Expressway N/O 156th Street, Block 2730, Lot(s) 101, Borough of **Bronx, Community Board: 02**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. M1-2 (HP SD) district.

180-12-A

Major Deegan Expressway S/O Van Cortland, Block 3269, Lot(s) 70, Borough of **Bronx, Community Board: 08**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. M1-1 district.

181-12-A

511 Canal Street, Greenwich Street and Hudson Street, Block 594, Lot(s) 8, Borough of **Manhattan, Community Board: 2**. Appeal of Sign Registration Rejection dated May 9, 2012 by the Department of Buildings. C6-2A district.

182-12-A

Major Deegan Expressway and 161st Street, located on MTA Railroad Property, Block , Lot(s) , Borough of **Bronx, Community Board: 4**. Appeal from Department of Buildings' determination that sign is not entitled to legal status as advertising sing. district.

183-12-A

476 Exterior Street, E. 149 St, to North Major Deegan Expressway to East, Harlem River to West, Block 02349, Lot(s) 0112, Borough of **Bronx, Community Board: 1**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. C4-4 district.

184-12-A

477 Exterior street, e149th Street to North, Major Deegan Expressway to East, Harlem River to West, Block 02349, Lot(s) 0112, Borough of **Bronx, Community Board: 1**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. C4-4 district.

185-12-A

475 Exterior street, E. 149th Street to North, Major Deegan Expressway to East; Harlem River to West, Block 02349, Lot(s) 0112, Borough of **Bronx, Community Board: 1**. Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. C4-4 district.

186-12-A

Major Deegan, Block , Lot(s) , Borough of **Bronx, Community Board: .** Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. M1-1 district.

187-12-A

Major Deegan, , Block , Lot(s) , Borough of **Bronx, Community Board: .** Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. M1-1 district.

188-12-A

Major Deegan, Block , Lot(s) , Borough of **Bronx, Community Board: .** Appeal challenging the Department of Building's determination that signs located on railroad properties are subject to New York City signage regulation. M1-1 district.

189-12-BZ

98 Montague Street, East side of Hicks Street between Montague and Remsen Streets, on block bounded by Hicks, Montague, Henry and Remsen Streets., Block 248, Lot(s) 15, Borough of **Brooklyn, Community Board: 2**. Variance to permit a transient hotel (Use Group 5), contrary to use regulations. C1-3/R7-1, R6 zoning districts. C1-3/R7-1, R6 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

JULY 10, 2012, 10:00 A.M.

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

SPECIAL ORDER CALENDAR

365-79-BZ

APPLICANT – Kevin B. McGrath c/o Phillips Nizer LLP, for 89-52 Queens LLC, owner.
SUBJECT – Application February 21, 2012 – Amendment to a prior variance which allowed for a hospital to be built contrary to bulk regulations. The hospital is now proposed to be used for commercial, community facility and residential uses. R6B/C1-2 zoning district.
PREMISES AFFECTED – 90-02 Queens Boulevard, Hoffman Drive and Queens Boulevard, block 2857, Lot 36, Borough of Queens.
COMMUNITY BOARD #4Q

25-89-BZ

APPLICANT – Kevin B. McGrath c/o Phillips Nizer LLP, for St. John's Garage LLC, owner.
SUBJECT – Application February 23, 2012 – Amendment to prior variance which allowed for an accessory parking garage to be built for a hospital to be used for accessory parking for community facility, commercial and residential uses which will now occupy that former hospital. R6B/C1-2 zoning district.
PREMISES AFFECTED – 58-04 Hoffman Drive, 58th Avenue and Hoffman Drive, Block 2860, Lot 16, Borough of Queens.
COMMUNITY BOARD #4Q

337-90-BZ

APPLICANT – Sheldon Lobel, P.C., for Giuseppe LaSorsa, owner.
SUBJECT – Application April 26, 2012 – Extension of Term (§11-411) of a previously approved variance which permitted an automotive repair establishment (UG 16B) and a two-story mixed-use building with retail (UG 6) and residential (UG 2) which will expire on June 2, 2012. C1-3/R5D zoning district.
PREMISES AFFECTED – 1415-17 East 92nd Street, northeast corner of the intersection formed by East 92nd Street and Avenue L, Block 8238, Lot 9, Borough of Brooklyn.
COMMUNITY BOARD #18BK

51-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rivoli Realty Corporation, owner.
SUBJECT – Application February 4, 2010 – Amendment of variance (§72-21) which permitted, in a C1-2/R2 zoning district, the operation of a Physical Culture Establishment (PCE) contrary to ZR §32-00, and the legalization of an existing dance studio (Use Group 9), contrary to ZR §32-18.
The amendment seeks to enlarge the PCE to occupy 1,072 sf of the first floor and amend the resolution to reflect a change in ownership of the PCE.
PREMISES AFFECTED – 188-02/22 Union Turnpike, Located on the south side of Union Turnpike between 188th and 189th Streets, Block 7266, Lot 1, Borough of Queens.
COMMUNITY BOARD #1Q

APPEALS CALENDAR

17-12-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Richard and Michelle Kourbage, owners.
SUBJECT – Application January 24, 2012 – Proposed building not fronting a mapped street contrary to Art 3 Sect. 36 GCL and Sect 27-291 Admin. Code of City of New York. The building is in the bed of a mapped street contrary to Art. 3 Sect 35 of the General City Law. Private disposal system in the bed of a mapped street contrary to D.O.B. policy. R4 zoning district.
PREMISES AFFECTED – 409 Seabreeze Walk, north side of Seabreeze Walk, Block 16350, Lot 400, Borough of Queens.
COMMUNITY BOARD #14Q

18-12-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Dennis Dorizas, lessee.
SUBJECT – Application January 24, 2012 – Proposed building and site not fronting a mapped street contrary to Art. 3 Sect. 36 GCL and Sect. C27-291 of Admin. Code. R4 Zoning District.
PREMISES AFFECTED – 377 Bayside Avenue, Block 16340, Lot 50, Borough of Queens.
COMMUNITY BOARD #14Q

CALENDAR

JULY 10, 2012, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 10, 2012, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

147-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Savita and Neeraj Ramchandani, owners.

SUBJECT – Application September 16, 2011– Variance (§72-21) to permit the construction of a single-family semi-detached residence on a vacant lot contrary to floor area (23-141) and side yard (23-461). R3-2 zoning district.

PREMISES AFFECTED – 24-47 95th Street, east side of 95th Street, between 24th and 25th Avenues, Block 1106, Lot 44, Borough of Queens.

COMMUNITY BOARD #3Q

16-12-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Adas Yereim, owner.

SUBJECT – Application January 23, 2012 – Special Permit (§73-19) to allow for school to be located within a M1-2 zoning district, contrary to §42-00. M1-2 zoning district.

PREMISES AFFECTED – 184 Nostrand Avenue, northwest corner of Nostrand Avenue and Willoughby Avenue, Block 1753, Lot 42, 43, Borough of Brooklyn.

COMMUNITY BOARD #4BK

80-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Barbizon Hotel Associates, LP, owner; SoulCycle East 63rd Street, LLC, lessee.

SUBJECT – Application April 5, 2012 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*SoulCycle*). C1-8X and R8B zoning districts.

PREMISES AFFECTED – 140 East 63rd Street, southeast corner of intersection of East 63rd Street and Lexington Avenue, Block 1397, Lot 7505, Borough of Manhattan.

COMMUNITY BOARD #4BK

104-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Paula Jacob, owner.

SUBJECT – Application April 12, 2012 – Re-instatement (§11-411) of a previously approved variance permitting accessory retail parking on the R5 portion of a zoning lot that is split by district boundaries which expired on May 20, 2000; Extension of Time to obtain a Certificate of Occupancy which expired on April 11, 1994; Waiver of the

Board's Rules of Practice and Procedure. C2-4/R6A and R5 zoning district.

PREMISES AFFECTED – 178-21 & 179-19 Hillside Avenue, northside of Hillside Avenue between 178th Street and Midland Parkway, Block 9937, Lot 60, Borough of Queens.

COMMUNITY BOARD #8Q

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, JUNE 12, 2012
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

196-49-BZ

APPLICANT – Walter T. Gorman, P.E., for 1280 Allerton Avenue Realty Corp., owner; Don-Glo Auto Service Center, lessee.

SUBJECT – Application February 14, 2012 – Extension of Term of an approved variance for the continued operation of a gasoline service station (*Sunoco*) which expired on September 30, 2005; Amendment for the addition of a lift in the service building and an air tower and car vacuum on the site. R4 zoning district.

PREMISES AFFECTED – 1280 Allerton Avenue, south west corner of Wilson Avenue. Block 4468, Lot 43. Borough of Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Chetram Budhu.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term, and an amendment to a previously granted variance for a gasoline service station; and

WHEREAS, a public hearing was held on this application on April 24, 2012 after due notice by publication in *The City Record*, with a continued hearing on May 15, 2012, and then to decision on June 12, 2012; and

WHEREAS, Community Board 11, Bronx, recommends approval of this application; and

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

WHEREAS, the site is located on a corner through lot bounded by Bouck Avenue to the west, Allerton Avenue to the north, and Wilson Avenue to the east, within an R4 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 11, 1950 when, under the subject calendar number, the Board granted a variance to permit the

site to be occupied by a gasoline service station for a term of 15 years; and

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

WHEREAS, most recently, on December 22, 1998, the Board granted an extension of term for a period of ten years, which expired on September 30, 2005; and

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

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

WHEREAS, the applicant also requests an amendment to the previous grant to reflect the addition of a third automobile lift in the service building, the addition of an air tower and car vacuum tower at the northwest corner of the site, and an increase in the hours of operation for gasoline sales; and

WHEREAS, as to the hours of operation, the applicant states that the previously-approved hours of operation are 6:00 a.m. to 12:00 a.m., daily, for the gasoline service station, and Monday through Saturday, from 8:00 a.m. to 5:00 p.m., and Sunday, from 10:00 a.m. to 3:00 p.m. for the auto repair shop; and

WHEREAS, the applicant proposes to increase the hours of operation for the gasoline service station to 24 hours, daily, and to change the hours of operation for the auto repair shop to Monday through Saturday, from 8:00 a.m. to 5:00 p.m., and closed on Sunday; and

WHEREAS, the applicant states that permitting the subject gasoline service station to operate on a 24-hour basis will enable it to compete with the many existing gasoline service stations within the City that operate on a 24-hour basis; and

WHEREAS, at hearing, the Board raised concerns about an open Fire Department violation for failure to have certificates of fitness for dispensing gasoline and failure to display an annual fire permit; and

WHEREAS, in response, the applicant submitted copies of the certificates of fitness for individuals who dispense gasoline at the station, and submitted a copy of the annual fire permit which is displayed at the station; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated April 11, 1950, so that as amended this portion of the resolution shall read: “to extend the term for ten years from September 30, 2005, and to permit the noted modifications to the previously-approved plans; *on condition* that all use and operations shall substantially conform to plans filed with this application marked ‘Received February 14, 2012’-(6) sheets; and *on further condition*:

THAT the term of the grant will expire on September 30, 2015;

THAT the hours of operation for the gasoline service

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station will be 24 hours, daily;

THAT the hours of operation for the auto repair shop will be Monday through Saturday, from 8:00 a.m. to 5:00 p.m., and closed on Sunday;

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

THAT a new certificate of occupancy will be obtained by June 12, 2013;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 220166120)

Adopted by the Board of Standards and Appeals June 12, 2012.

849-49-BZ

APPLICANT – Greenberg Traurig, LLP, by Jay A. Segal, Esq., for Directors of Guild of America, Inc., owner.

SUBJECT – Application February 29, 2012 – Extension of Term of a previously granted Variance (§72-21) for the continued use of a motion picture theater which expired on January 31, 2012. C5-3(MID) zoning district.

PREMISES AFFECTED – 110 West 57th Street, southside of 57th Street, between 6th and 7th Avenues, Block 1009, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Randall Minor.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of the term for a previously granted variance for the operation of a motion picture theater (Use Group 8) at the site; and

WHEREAS, a public hearing was held on this application on May 15, 2012, after due notice by publication in *The City Record*, and then to decision on June 12, 2012; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

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

WHEREAS, the subject site is located on the south side of West 57th Street, between Avenue of the Americas and Seventh Avenue, within a C5-3 zoning district; and

WHEREAS, the site is occupied by a seven-story

commercial building with a 4,110 sq. ft. portion of the first floor operated as a motion picture theater (Use Group 8); and

WHEREAS, the Board has exercised jurisdiction over the site since March 28, 1950 when, under the subject calendar number, the Board granted a variance to permit the use of a portion of the first floor as a motion picture theater (Use Group 8), for a term of 21 years; and

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

WHEREAS, most recently, on September 30, 2003, the Board granted a ten-year extension of term, which expired on January 31, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated March 28, 1950, so that as amended this portion of the resolution shall read: “to extend the term for ten years from January 31, 2012, to expire on January 31, 2022; *on condition* that the use and operation of the site shall comply with the BSA-approved plans associated with the prior grant; and *on further condition*:

THAT the term of the grant will expire on January 31, 2022;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB App. No. 103455976)

Adopted by the Board of Standards and Appeals June 12, 2012.

749-65-BZ

APPLICANT – Sheldon Lobel, P.C., for Henry Koch, owner.

SUBJECT – Application April 9, 2012 – Extension of Time to obtain a Certificate of Occupancy for a previously granted Variance (§72-21) for the continued operation of a UG16 Gasoline Service Station (*Getty*) which expired on March 8, 2012.

PREMISES AFFECTED – 1820 Richmond Road, southeast corner of Richmond Road and Stobe Avenue, Block 3552, Lot 39, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Emily Laskodi.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy, which expired on March 8, 2012; and

WHEREAS, a public hearing was held on this application on May 8, 2012, after due notice by publication in *The City Record*, and then to decision on June 12, 2012; and

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

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

WHEREAS, the site is located on the southeast corner of Richmond Road and Stobe Avenue, within an R3X zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 3, 1965 when, under the subject calendar number, the Board granted a variance to permit the reconstruction and rehabilitation of an automotive service station with accessory uses, for a term of 15 years; and

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

WHEREAS, most recently, on March 8, 2011, the Board granted an extension of term for ten years from the expiration of the prior grant, to expire on November 3, 2020, and an extension of time to obtain a certificate of occupancy, which expired on March 8, 2012; and

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

WHEREAS, the applicant states that a new certificate of occupancy was not obtained by the stipulated date due to delays at the Department of Buildings; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated November 3, 1965, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to June 12, 2013; *on condition* that the use and operation of the site shall comply with the BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a new certificate of occupancy will be obtained by June 12, 2013;

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

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. 520045816)

Adopted by the Board of Standards and Appeals June 12, 2012.

136-01-BZ

APPLICANT – Eric Palatnik, P.C., for Cel Net Holdings Corp., owner.

SUBJECT – Application April 20, 2012 – Extension of Time to complete Construction and obtain a Certificate of Occupancy for a previously granted Variance (§72-21) which permitted non-compliance in commercial floor area and rear yard requirements which expired on March 21, 2012. M1-4/R-7A zoning district.

PREMISES AFFECTED – 11-11 44th Drive, north side of 44th Drive between 11th Street and 21st Street, Block 447, Lot 13, Borough of Queens.

COMMUNITY BOARD #2Q

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 and an extension of time to complete construction and obtain a certificate of occupancy for a previously granted variance; and

WHEREAS, a public hearing was held on this application on May 15, 2012, after due notice by publication in *The City Record*, and then to decision on June 12, 2012; and

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

WHEREAS, the subject site is located on the north side of 44th Drive, between 11th Street and 21st Street, within an M1-4 (R7A) zoning district; and

WHEREAS, on June 11, 2002, the Board granted an application under ZR § 72-21, to permit, in an M1-4 zoning district, an increase in floor area for a wholesale office with accessory storage (Use Group 10) and the legalization of the existing encroachment into the rear yard; and

WHEREAS, substantial construction was to be completed by June 11, 2006 in accordance with ZR § 72-23; and

WHEREAS, on March 28, 2006, the Board granted an extension of time to complete construction and obtain a certificate of occupancy, to expire on March 28, 2008; and

WHEREAS, on January 12, 2010, the Board granted an extension of time to complete construction and obtain a certificate of occupancy, which expired on July 12, 2010, and an amendment to the approved plans to reflect that the previously-approved enlargement had been eliminated and that the total floor area of the proposed building will remain at

MINUTES

31,784 sq. ft.; and

WHEREAS, most recently, on September 21, 2010, the Board granted an extension of time to complete construction and obtain a certificate of occupancy, to expire on March 21, 2012; and

WHEREAS, the applicant now requests an additional extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, the applicant states that since the Board's prior grant of an extension of time the owner has made substantial expenditures toward completing the project, totaling \$427,359.04, which included substantial improvements to the structure, mechanical systems, fireproofing and sprinklering, and interior of the building; and

WHEREAS, in support of the work performed on the site since the prior grant, the applicant submitted expense reports reflecting the expenditures made on construction, and photographs of the work completed on the site; and

WHEREAS, the applicant states that approximately 90 percent of the work is complete at the site, and requests a one-year extension of time to complete construction, consisting of minor interior carpentry, painting, and carpeting, and to obtain a certificate of occupancy; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 11, 2002, so that as amended this portion of the resolution shall read: "to permit an extension of time to complete construction and obtain a certificate of occupancy, to expire on June 12, 2013; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT substantial construction will be completed and a certificate of occupancy obtained by June 12, 2013;

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

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

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

(DOB Application No. 400849748)

Adopted by the Board of Standards and Appeals, June 12, 2012.

292-55-BZ

APPLICANT – Alfonso Duarte, for Narkeet Property Inc., owner.

SUBJECT – Application April 2, 2012 – Extension of Term (§11-411) for the continued operation of a Automotive Service Station (GULF) which expired on April 10, 2011; Waiver of the Rules. R3-2 zoning district.

PREMISES AFFECTED – 239-15 Jamaica Avenue, northwest corner of 240th Street, Block 8001, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD – Laid over to July 17, 2012, at 10 A.M., for continued hearing.

534-65-BZ

APPLICATION – Alfonso Duarte for Parker Yellowstone, owner.

SUBJECT – Application March 9, 2012 – Extension of Term permitting surplus tenant parking spaces, within an accessory garage, for transient parking pursuant to §60 (3) of the Multiple Dwelling Law, which expired on July 13, 2010; waiver of the Rules. R7-1 zoning district.

PREMISES AFFECTED – 104-40 Queens Boulevard, northeast corner Yellowstone Boulevard. Block 3175, Lot 1. Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Alfonso Duarte.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2012, at 10 A.M., for decision, hearing closed.

313-77-BZ

APPLICANT – Goldman Harris LLC, for Gilsey House, owner.

SUBJECT – Application April 13, 2012 – Amendment to a variance (§72-21) which allowed the conversion of a manufacturing building to residential use. The proposal is to construct a one-story penthouse and roof deck enlargement within the approved envelope. M1-6 zoning district.

PREMISES AFFECTED – 1200 Broadway, southeast corner of West 29th Street and Broadway, Block 831, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Vivien R. Krieger.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

MINUTES

12-91-BZ

APPLICANT – Rampulla Associates Architects, for Miggy’s Too Delicatessen Corp., owner.

SUBJECT – Application March 12, 2012 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a UG6 food store (*Bayer’s Market*) which expired on April 21, 2012; Amendment to eliminate landscaping, legalize an outdoor refrigeration unit, eliminate hours for garbage pickup, and request to eliminate the term of the variance. R3-2 zoning district.

PREMISES AFFECTED – 2241 Victory Boulevard, north south corner of Victory Boulevard and O’Connor Avenue, Block 463, Lot 25, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Phillip L. Rampulla.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2012, at 10 A.M., for decision, hearing closed.

163-04-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Mylaw Realty Corporation, owner; Crunch Fitness, lessee.

SUBJECT – Application April 30, 2012 – Extension of Time to obtain a Certificate of Occupancy of a special permit (§73-63) for the operation of a physical culture establishment (*Crunch Fitness*) which expired on April 24, 2011; Waiver of the Rules. R7A (C2-4) zoning district.

PREMISES AFFECTED – 671/99 Fulton Street, northwest corner of intersection of Fulton Street and St. Felix Street, Block 2096, Lot 66, 69, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2012, at 10 A.M., for decision, hearing closed.

339-04-BZ

APPLICATION – Eric Palatnik, P.C., for Kramer and Wurtz, Inc., owner.

SUBJECT – Application January 17, 2012 – Extension of Term (§11-411) of a previously granted variance which permits an automotive service station (UG 16B) which expires on June 4, 2012. R3-1 zoning district.

PREMISES AFFECTED – 157-30 Willets Point Boulevard, south side of the intersection formed by Willets Point Boulevard and Clintonville Street. Block 4860, Lot 15.

Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

APPEALS CALENDAR

99-11-A

APPLICANT – Eric Palatnik, P.C., for Naila Aatif, owner.

SUBJECT – Application July 8, 2011 – Legalization of changes to a two-family residence which does not front upon a legally mapped street, contrary to General City Law Section 36. R6 Zoning District

PREMISES AFFECTED – 16 Brighton 7th Walk, between Brighton 7th Street and Brighton 8th Street. Block 8667, Lot 774, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, June 12, 2012.

196-11-A

APPLICANT – Bryan Cave, LLP, for Jamaica Estates Design Group LLC, owner.

SUBJECT – Application December 27, 2011 – An appeal seeking a common law vested right to continue development commenced under the prior R6 zoning district regulations. R4-1 zoning district.

PREMISES AFFECTED – 178-06 90th Avenue, southeast corner of the intersection of 90th Avenue and 178th Street, Block 9894, Lot 47, 48, 51, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Frank Chaney.

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 –

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WHEREAS, this is an appeal requesting a Board determination that the owner of the premises has obtained the right to complete construction of a seven-story community facility building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on May 15, 2012, after due notice by publication in *The City Record*, and then to decision on June 12, 2012; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Chair Srinivasan; and

WHEREAS, the site is located on the southeast corner of 90th Avenue and 178th Street; and

WHEREAS, the site consists of an L-shaped parcel with approximately 90 feet of frontage on 90th Avenue, 77 feet of frontage on 178th Street, and a total lot area of 8,450 sq. ft.; and

WHEREAS, the applicant proposes to develop the site with a seven-story community facility building with a floor area of 38,468 sq. ft. (4.55 FAR) (the "Building"); and

WHEREAS, the subject site is currently located in an R4-1 zoning district, but was formerly located within an R6 zoning district; and

WHEREAS, the Building complies with the former R6 zoning district parameters, specifically with respect to floor area; and

WHEREAS, however, on September 10, 2007 (the "Rezoning Date"), the City Council voted to adopt the Jamaica Plan Rezoning, which rezoned the site to an R4-1 zoning district, as noted above; and

WHEREAS, the Building does not comply with the R4-1 zoning district parameters; 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 applicant states that Permit No. 402601500 was issued on June 26, 2007 (the "Foundation Permit"), and New Building Permit No. 402629312 was issued on August 20, 2007 authorizing the development of a nine-story mixed-use residential/community facility building with 16 dwelling units and a total of 26,609 sq. ft. of floor area (the "Original Building"), which was permitted as-of-right under the R6 zoning district; and

WHEREAS, the Board notes that, as of the Rezoning Date, the applicant had obtained permits for the development and had completed 100 percent of their foundations, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows DOB to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are permitted for the completion of construction and to obtain a certificate of occupancy; and

WHEREAS, in the event that construction permitted by ZR § 11-331 has not been completed and a certificate of occupancy has not been issued within two years of a rezoning, ZR § 11-332 allows an application to be made to the Board not more than 30 days after its lapse to renew such permit; and

WHEREAS, the applicant states that construction was not completed and a certificate of occupancy was not obtained

within two years of the Rezoning Date; and

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

WHEREAS, the Board notes that the applicant failed to file an application to renew the Permit pursuant to ZR § 11-332 within 30 days of its lapse on September 10, 2009, and is therefore requesting additional time to complete construction and obtain a certificate of occupancy under the common law; and

WHEREAS, the applicant states that on September 10, 2009, DOB approved an amendment to the plans for the Original Building under a Post-Approval Amendment ("PAA") and issued a new building permit to allow the construction of the Building, which was also permitted as-of-right under the R6 zoning district; and

WHEREAS, the applicant further states that all construction work performed pursuant to the permit for the Original Building can be applied toward the Building; and

WHEREAS, the applicant notes that the Building primarily consists of faculty apartments and offices to be occupied by Queens College; and

WHEREAS, by letter dated January 11, 2012, DOB states that the Permit was lawfully issued, authorizing construction prior to the Rezoning Date; and

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

WHEREAS, as to substantial construction, the Board notes that DOB determined that the applicant had completed 100 percent of its foundation prior to the Rezoning Date, such that the right to continue construction had vested pursuant to ZR § 11-331; and

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WHEREAS, the applicant states that, as of the two year anniversary of the Rezoning Date the owner had completed all excavation and foundation work, all waterproofing of the foundation walls, and had begun construction of the concrete block walls on top of the foundation walls; and

WHEREAS, the applicant represents that the work completed at the site as of the two year anniversary of the Rezoning Date accounts for approximately 15 percent of the total construction work; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: construction contracts, a construction log, concrete pour tickets, and photographs of the site showing the amount of work completed prior to the two year anniversary of the Rezoning Date; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed before the two year anniversary of the Rezoning 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 the owner expended \$2,758,239, including hard and soft costs and irrevocable commitments, out of \$11,616,685 budgeted for the entire project; and

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

WHEREAS, in relation to actual construction costs, the applicant specifically notes that the owner had paid or contractually incurred \$1,224,137 for the work performed at the site as of the two year anniversary of the Rezoning Date; and

WHEREAS, the applicant further states that the owner paid an additional \$1,534,102 in soft costs related to the work performed at the site as of the two year anniversary of the Rezoning Date; and

WHEREAS, thus, the expenditures up to the two year anniversary of the Rezoning Date represent approximately 24 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 it is required to comply with the R4-1 zoning district regulations, the floor area of the Building would have to be decreased from the proposed 38,468 sq. ft. (4.55 FAR) to a maximum of 16,900 sq. ft. (2.0 FAR); and

WHEREAS, the applicant further states that an R4-1 compliant community facility building would not be feasible because it would not suit the programmatic needs of Queens College, which would likely withdraw from the project as a result; and

WHEREAS, the applicant represents that an R4-1 compliant mixed-use building with approximately 8,000 sq. ft. of ground floor community facility use and a maximum of 7,605 sq. ft. of residential floor area would be even less feasible than a complying community facility building; and

WHEREAS, accordingly, the applicant states that the only potentially feasible development under the R4-1 district regulations would be a residential building; however, constructing a residential building on the site would require the complete redesign of the Building; and

WHEREAS, specifically, the applicant states that the existing foundation, which is built to the lot lines, is far too large for a complying residential building and would have to be substantially or even completely demolished and rebuilt in order to provide the necessary front, side, and rear yards for a complying residential building, resulting in the loss of all of the hard and soft costs associated with the construction and maintenance of the foundation on the property, a total of \$2,758,239; and

WHEREAS, the Board agrees that the reduction in floor area of the Building, coupled with the loss of expenditures and outstanding fees that could not be recouped and the need to demolish and redesign, 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 two year anniversary of the Rezoning Date.

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a reinstatement of Alteration Permit No. 402629312-01-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, June 12, 2012.

MINUTES

15-12-A & 158-12-A

APPLICANT – Richard G. Leland, Esq./Fried Frank, for 29-01 Borden Realty Co., LLC, owner; Van Wagner Communications, LLC, lessee.

SUBJECT – Application January 23, 2012 – Appeal challenging the Department of Buildings’ determination that outdoor accessory signs and structures are not a legal non-conforming accessory use pursuant to §52-00. M3-1 zoning district.

PREMISES AFFECTED – 29-01 Borden Avenue, bounded by Newton Creek, Borden Avenue, Hunters Point Avenue and 30th Avenue, Block 292, Lot 1, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, June 12, 2012.

52-12-A

APPLICANT – Zygmunt Staszewski, for Breezy Point Cooperative Inc., owner; Michael Mullaly, lessee.

SUBJECT – Application March 7, 2012 – Proposed reconstruction of an existing building located in the bed of a mapped street, contrary to Section 35 of the General City Law, not fronting a mapped street, contrary to Section 36 of General City Law and contrary to the Department of Buildings policy. R4 zoning district.

PREMISES AFFECTED – 35 Janet Lane, north of Janet Lane, east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Michael Harley.

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.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated March 1, 2012, acting on Department of Buildings Application No. 420344693, reads in pertinent part:

A1- The proposed enlargement is on a site where the building and lot are partially located in the bed of a mapped street therefore no permit or Certificate of Occupancy can be issued as per Art. 3 Sect. 35 of the General City Law

A2- The street giving access to the existing building to be altered is not duly placed on the map of the City of New York.

a) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law; and

b) Existing dwelling to be altered does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code.

A3- The proposed upgrade of the private disposal system is contrary to the Department of Building policy; and

WHEREAS, a public hearing was held on this application on May 8, 2012, after due notice by publication in the *City Record*, with a continued hearing on June 12, 2012, and then to decision on the same date; and

WHEREAS, by letter dated April 26, 2012 the Fire Department states that it has no objection to the subject proposal, and due to the fact that the proposed enlargement is less than 125 percent of the existing floor area, no Fire Code regulations are triggered; and

WHEREAS, by letter dated March 21, 2012, the Department of Environmental Protection states that it has no objection to the subject proposal; and

WHEREAS, by letter dated March 28, 2012, the Department of Transportation (“DOT”) states that it has no objection to the subject proposal; and

WHEREAS, DOT states that the subject lot is not currently included in the agency’s Capital Improvement Program; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated March 1, 2012, acting on Department of Buildings Application No. 420344693, is modified by the power vested in the Board by Section 35 and Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received March 7, 2012”-one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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, June

MINUTES

12, 2012.

125-11-A

APPLICANT – Law Offices of Marvin B. Mitzner for 514-516 E. 6th Street, LLC, owner.

SUBJECT – Application August 25, 2011 – Appeal challenging the Department of Buildings’ determination to deny the reinstatement of permits that allowed an enlargement to an existing residential building. R7B zoning district.

PREMISES AFFECTED – 514-516 East 6th Street, south side of East 6th Street, between Avenue A and Avenue B, Block 401, Lot 17, 18, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Application: Peter Geis.

ACTION OF THE BOARD – Laid over to July 24, 2012, at 10 A.M., for deferred decision.

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: Calvin Wong

ACTION OF THE BOARD – Laid over to July 24, 2012, at 10 A.M., for adjourned hearing.

24-12-A & 147-12-A

APPLICANT – Richard G. Leland, Esq./Fried Frank, for 12th Avenue Realty Holding Corp., owner; Mizey Realty Co., Inc., lessee.

SUBJECT – Application February 2, 2012 and May 8, 2012 – Appeal challenging the Department of Buildings’ determination that outdoor accessory signs and structures are not a legal non-conforming use pursuant to §52-00. M1-2 zoning district.

PREMISES AFFECTED – 2368 12th Avenue, bounded by Henry Hudson Parkway, West 134th Street, 12th Avenue and 135th Street, Block 2005, Lot 32, Borough of Manhattan.

COMMUNITY BOARD #9M

APPEARANCES –

For Applicant: Richard G. Leland.

For Opposition: John Egnatios Beene.

THE VOTE TO CLOSE HEARING –

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

Commissioner Montanez.....5

Negative:.....0

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, JUNE 12, 2012
1:30 P.M.**

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

ZONING CALENDAR

129-11-BZ

CEQR #12-BSA-019K

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 –

For Applicant: Jeffrey Chester.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 4, 2011, acting on Department of Buildings Application No. 320206031, reads in pertinent part:

Residence (UG 2) is not permitted as of right use in a M1-2 district as per Section 42-00 of the Zoning Resolution and, as such must be referred to the Board of Standards and Appeals for approval; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-2 zoning district, the construction of a four-story residential building, which is contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on January 24, 2012 after due notice by publication in the *City Record*, with a continued hearing on February 28, 2012, and then to decision on June 12, 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 6, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Carroll Street between Nevins Street and Third Avenue; and

WHEREAS, the site is an irregularly-shaped lot with 24'-

0" of frontage along Carroll Street, with a 12'-6" bump out along the rear 25'-0" of the lot (for a total width of 36'-6" at the rear of the lot), a depth of 100 feet, and a total lot area of 2,712.5 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a four-story, four-unit residential building with a floor area of 5,421 sq. ft. (2.0 FAR) and a height of 40 feet; and

WHEREAS, because residential use is not permitted in the M1-2 zoning district, the subject variance is requested; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with applicable regulations: (1) the site is narrow and irregularly-shaped; and (2) the site is located on a narrow street among residential uses; and

WHEREAS, as to the size and shape of the lot, the applicant states that the lot has a narrow width of 24'-0", with a 12'-6" bump out along the rear 25'-0" of the lot; and

WHEREAS, the applicant represents that the narrow width of the site would result in a conforming commercial or manufacturing building with extremely narrow floor plates, which would impede the flow of work and material for such a use; and

WHEREAS, as to the location of the site, the applicant states that Carroll Street is a narrow, one-lane, one-way street with parking spaces along both sides of the street, and the subject block is occupied primarily by residential use; and

WHEREAS, the applicant states that due to the layout of the street, there could be no meaningful driveway or loading dock located on the subject site and it would be difficult to impossible for tractor-trailers or large commercial trucks to make deliveries or pickups at the site; and

WHEREAS, the applicant further states that the narrow width of the site also contributes to the inability to provide a viable loading dock on the site to support a conforming use; and

WHEREAS, accordingly, the applicant represents that a conforming commercial or manufacturing building would not be viable on the subject site; and

WHEREAS, as to the uniqueness of the conditions, the applicant performed a lot use and width analysis that evaluated the 443 lots bounded by Sackett Street, Fourth Avenue, Bond Street, and Third Street, which is almost equivalent to the area in the Department of City Planning's Rezoning Proposal for the Gowanus; and

WHEREAS, the applicant states that the analysis reflects that there are a total of only eight vacant lots in the study area with a width of 25 feet or less in the manufacturing zoning district, accounting for only 1.8 percent of the lots in the study area; and

WHEREAS, the applicant further states that four of these vacant narrow lots are directly adjacent to each other such that they have the opportunity for assemblage, while two of the other vacant lots are directly adjacent to existing manufacturing uses and vacant space, giving the lots the ability to merge and create a large development lot for commercial or manufacturing uses; and

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WHEREAS, the applicant notes that there are only two lots in the study area other than the subject site (less than 0.5 percent of lots within the study area) which have the condition of being narrow vacant lots zoned for manufacturing use which cannot merge with an adjacent vacant or commercial site to create a larger, commercially viable development lot; and

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

WHEREAS, the applicant asserts that because of its unique physical conditions, there is no possibility that the use of the property in conformance with applicable use regulations will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study analyzing (1) a conforming three-story commercial building with ground floor retail and office use above and (2) the proposed four-story residential building; and

WHEREAS, at the Board's direction, the applicant supplemented its feasibility study with an analysis of a conforming industrial building; and

WHEREAS, the applicant concluded that only the proposed use would realize a reasonable return; and

WHEREAS, the applicant submitted evidence that the owner had unsuccessfully attempted to market the building for a conforming use; and

WHEREAS, based upon its review of the feasibility study, 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 use requirements will provide a reasonable return; and

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

WHEREAS, the applicant states that the buildings surrounding the property are predominantly residential; and

WHEREAS, the applicant notes that the proposed residential use is consistent with the character of the area, which includes many other residential uses, including the adjacent residential buildings and others on the subject block; and

WHEREAS, in support of the above statements, the applicant submitted a land use map, showing the various uses in the immediate vicinity of the site; and

WHEREAS, during the course of the hearing process, the applicant submitted revised plans reflecting that the fourth floor of the proposed building will be set back 15 feet from the street line, and submitted a streetscape which reflects that the height of the building fits within the context of the surrounding buildings on the street; and

WHEREAS, the applicant notes that DCP issued a Gowanus Canal Corridor Rezoning Study in 2008 which outlined the basis for rezoning the subject neighborhood and specifically recommended that the blocks immediately surrounding and including the subject site be rezoned to an

M1-4/R6B zoning district, which would permit the use and bulk of the proposed building as-of-right; and

WHEREAS, the applicant states that the Draft Zoning Proposal for the subject neighborhood reflects an acknowledgment that residential use is appropriate for the proposed site; however, the applicant represents that the Environmental Protection Agency's designation of the Gowanus Canal as a Superfund site had the effect of halting DCP's proposed rezoning of the neighborhood; and

WHEREAS, as to the bulk, the applicant states that the proposed building complies with R6B (Quality Housing) equivalent regulations; and

WHEREAS, based upon its review of the submitted land use map and its site inspection, the Board agrees that the area includes a significant amount of residential use, and finds that the introduction of the proposed building will not impact nearby conforming uses nor negatively affect the area's character; and

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 12BSA019K, dated May 31, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as

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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 the construction of a four-story residential building, which is contrary to ZR § 42-00 *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 23, 2012"– six (6) sheets; and *on further condition*:

THAT the following are the bulk parameters of the building: a maximum floor area of 5,421 sq. ft. (2.0 FAR), four dwelling units, and a maximum height of 40'-0", as indicated on the BSA-approved plans;

THAT the cellar will not be used for dwelling, habitable, or sleeping purposes, as indicated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, June 12, 2012.

8-12-BZ

CEQR #12-BSA-064K

APPLICANT – Law Office of Fredrick A. Becker, for Gladys Mandalaoui and Solomon Mandalaoui, owners.

SUBJECT – Application January 17, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R4 zoning district/Special Ocean Parkway District.

PREMISES AFFECTED – 705 Gravesend Neck Road, north side of Gravesend Neck Road, between East 7th Street and East 8th Street, block 7159, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 24, 2012, acting on Department of Buildings Application No. 320404745, reads in pertinent part:

1. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of Section 23-461 & 23-48 of the Zoning Resolution.
2. Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution.
3. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to Section 23-141 of the Zoning Resolution.
4. Creates non-compliance with respect to the lot coverage and is contrary to Section 23-141 of the Zoning Resolution.
5. Creates non-compliance with respect to the open space and is contrary to Section 23-141 of the Zoning Resolution; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R4 zoning district within the Special Ocean Parkway District, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, 23-47, and 23-48; and

WHEREAS, a public hearing was held on this application on May 8, 2012 after due notice by publication in *The City Record*, and then to decision on June 12, 2012; and

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

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

WHEREAS, at hearing, an adjacent neighbor provided oral testimony in opposition to this application, citing concerns with drainage problems and associated flooding on the site; and

WHEREAS, the subject site is located on the north side of Gravesend Neck Road, between East 7th Street and East 8th Street, in an R4 zoning district within the Special Ocean Parkway District; and

WHEREAS, the subject site has a total lot area of 2,192 sq. ft., and is occupied by a single-family home with a floor area of 1,548 sq. ft. (0.71 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,548 sq. ft. (0.71 FAR) to 2,323 sq. ft. (1.06 FAR); the maximum permitted floor area is 1,644 sq. ft. (0.75 FAR); and

WHEREAS, the applicant proposes to provide an open

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space of 47 percent (55 percent is the minimum required); and

WHEREAS, the applicant proposes to provide a lot coverage of 53 percent (45 percent is the maximum permitted); and

WHEREAS, the applicant proposes to maintain the existing side yard along the eastern lot line with a width of 0'-10 ¾", and to maintain the existing side yard along the western lot line with a width of 3'-10 ¼" (a minimum width of 5'-0" is required for each side yard); and

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

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

WHEREAS, in response to the concerns raised by the adjacent neighbor, the applicant notes that the Department of Buildings ("DOB") will require that the site provide proper drainage in accordance with the Building Code; and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R4 zoning district within the Special Ocean Parkway District, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, 23-47, and 23-48; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received January 18, 2012"-(11) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 2,323 sq. ft. (1.06 FAR); an open space of 47 percent; lot coverage of 53 percent; a side yard with a minimum width of 0'-10 ¾" along the eastern lot line; a side yard with a minimum width of 3'-10 ¼" along the western lot line; and a rear yard with a

minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, June 12, 2012.

26-12-BZ

CEQR #12-BSA-074Q

APPLICANT –Sheldon Lobel, P.C., for Elmnick, LLC, owner.

SUBJECT – Application February 3, 2012 – Special Permit (§73-52) to allow the extension of accessory commercial parking in a residential zoning district. C1-2/R6B & R4-1 zoning districts.

PREMISES AFFECTED – 73-49 Grand Avenue, northwest corner of the intersection formed by Grand Avenue and 74th Street, Block 2491, Lot 40, 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 Superintendent, dated January 27, 2012, acting on Department of Buildings Application No. 420521215, reads in pertinent part:

"Proposed accessory parking in the R4-1 portion of the premises is contrary to ZR 22-10 and must be referred to the BSA for approval." and

WHEREAS, this is an application under ZR §§ 73-52 and 73-03, to permit, on a site partially within a C1-2 (R6B) zoning district and partially within an R4-1 zoning district, the extension of the C1-2 zoning district regulations 25 feet into the R4-1 zoning district, to allow for accessory parking for the commercial use (Use Group 6) located in the C1-2 portion of the site, contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on April 24, 2012 after due notice by publication

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in *The City Record*, with a continued hearing on May 15, 2012, and then to decision on June 12, 2012; and

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

WHEREAS, Community Board 5, Queens, recommends approval of this application, with the following conditions: (1) that the property be maintained graffiti free; and (2) that a fence with a height of four feet and with opaque slats be installed along the 53rd Road side of the property; and

WHEREAS, Queens Borough President Helen Marshall recommends approval of this application; and

WHEREAS, the subject site is located on an irregularly-shaped corner through lot with 102 feet of frontage on Grand Avenue, 109 feet of frontage on 74th Street and 100 feet of frontage on 53rd Road; and

WHEREAS, the site has a total lot area of 12,037 sq. ft.; and

WHEREAS, the site is currently occupied by a vacant one-story commercial building located along the northern portion of the site along 53rd Road and 74th Street, which is proposed to be demolished; and

WHEREAS, the applicant proposes to construct a one-story bank (Use Group 6) with a floor area of 2,939 sq. ft. (0.24 FAR) and 16 accessory parking spaces,

WHEREAS, the applicant requests a special permit pursuant to ZR § 73-52 to extend the C1-2 zoning district regulations 25 feet into the portion of the zoning lot located within an R4-1 district; and

WHEREAS, the applicant states that the extension of the C1-2 district would allow for the usage of the R4-1 portion of the lot for ten parking spaces; and

WHEREAS, the applicant further states that the building would be entirely within the C1-2 district; and

WHEREAS, the applicant notes that the majority of the zoning lot is located within a C1-2 (R6B) zoning district that extends 100 feet into the site from Grand Avenue, but that the remaining portion of the zoning lot is located within an R4-1 zoning district; and

WHEREAS, the portion of the site that is within the C1-2 (R6B) zoning district occupies 10,222 sq. ft. (84.9 percent) of the zoning lot, and the portion of the site that is within the R4-1 zoning district occupies 1,790 sq. ft. (15.1 percent) of the zoning lot; and

WHEREAS, the R4-1 portion fronts on 53rd Road and occupies an irregularly-shaped portion of the site, located to the west of the C1-2 portion of the site; and

WHEREAS, the C1-2 district permits the Use Group 6 bank; the R4-1 district permits only residential or community facility uses; and

WHEREAS, ZR § 73-52 provides that when a zoning lot, in single ownership as of December 15, 1961, is divided by district boundaries in which two or more uses are permitted, the Board may permit a use which is permitted in the district in which more than 50 percent of the lot area of the zoning lot is located to extend not more than 25 feet into the remaining

portion of the zoning lot where such use is not permitted, provided: (a) that, without any such extension, it would not be economically feasible to use or develop the remaining portion of the zoning lot for a permitted use; and (b) that such extension will not cause impairment of the essential character or the future use or development of the surrounding area; and

WHEREAS, as to the threshold single ownership requirement, the applicant submitted deeds and historic Sanborn maps establishing that the subject property has existed in single ownership since prior to December 15, 1961; and

WHEREAS, accordingly, the Board finds that the applicant has provided sufficient evidence showing that the zoning lot was in single ownership prior to December 15, 1961 and continuously from that time onward; and

WHEREAS, as to the threshold 50 percent requirement, 10,222 sq. ft. (84.9 percent) of the site's total lot area of 12,037 sq. ft. is located within the C1-2 zoning district, which is more than the required 50 percent of lot area; and

WHEREAS, as to the first finding, the applicant represents that it would not be economically feasible to use or develop the R4-1 portion of the zoning lot for a permitted use; and

WHEREAS, specifically, the applicant states that the R4-1 portion is irregularly shaped, with a varying width of 28 feet to six feet, and given yard requirements would be difficult to develop with a conforming use; and

WHEREAS, based upon the shape and yard requirements, the Board finds that it would not be economically feasible to use or develop the remaining portion of the zoning lot, zoned R4-1, for a permitted use; and

WHEREAS, as to the second finding, the applicant states that the proposed development is consistent with existing land use conditions and anticipated projects in the immediate area; and

WHEREAS, as noted above, the proposed building will be located entirely within the C1-2 district; and

WHEREAS, the applicant states that it will provide landscaping and a fence along the street and side lot line of the R4-1 portion of the site; and

WHEREAS, the applicant further states that ingress and egress to the site will be within the commercial zoned portion of the site located on Grand Avenue and 74th Street; and

WHEREAS, the applicant represents that the surrounding area is characterized by commercial uses; and

WHEREAS, specifically, the applicant states that the intersection of Grand Avenue and 74th Street is entirely commercial in context; and

WHEREAS, accordingly, the Board finds that the proposed extension of the C1-2 zoning district portion of the lot into the R4-1 portion will not cause impairment of the essential character or the future use or development of the surrounding area, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that this action will neither 1) alter the essential character of the surrounding

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neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the proposed action 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 §§ 73-52 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 17.2; 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.12BSA074Q, dated February 3, 2012; and

WHEREAS, the EAS documents that the operation of the bank 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 §§ 73-52 and 73-03, to permit, on a site partially within a C1-2 (R4-1) zoning district and partially within an R4-1 zoning district, the extension of the C1-2 zoning district regulations 25 feet into the R4-1 zoning district, to allow for accessory parking for a new bank (Use Group 6) at the site, contrary to ZR § 22-00; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 6, 2012" – seven(7) sheets; and *on further condition*:

THAT landscaping and trees will be planted in accordance with the BSA-approved plans;

THAT fencing will be provided, and the portion along 53rd Road will be maintained with ivy, in accordance with the BSA-approved plans;

THAT all lighting will be directed down and away from adjacent residential uses;

THAT the above conditions will be implemented prior

to the opening date of the bank;

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

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

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

Adopted by the Board of Standards and Appeals, June 12, 2012.

53-12-BZ

CEQR #12-BSA-086K

APPLICANT – Law Office of Frederick A. Becker, for Linda Laitz and Robert Laitz, owners.

SUBJECT – Application March 8, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); less than the minimum required side yard (§23-461 & 23-48) and less than the required rear yard (§23-47). R2 zoning district. PREMISES AFFECTED – 1232 East 27th Street, west side of East 27th Street, between Avenue L and Avenue M, Block 7644, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....5

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 17, 2012, acting on Department of Buildings Application No. 320382778, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted.
2. Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required.
3. Proposed plans are contrary to ZR 23-461 and 23-48 in that the proposed side yard is less than the minimum required.

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4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, 23-47, and 23-48; and

WHEREAS, a public hearing was held on this application on May 15, 2012 after due notice by publication in *The City Record*, and then to decision on June 12, 2012; and

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

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

WHEREAS, the subject site is located on the west side of East 27th Street, between Avenue L and Avenue M, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 2,500 sq. ft., and is occupied by a single-family home with a floor area of 1,651 sq. ft. (0.66 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,651 sq. ft. (0.66 FAR) to 2,558 sq. ft. (1.02 FAR); the maximum permitted floor area is 1,250 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 54 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain the existing side yard along the northern lot line with a width of 1'-0", and to maintain the existing side yard along the southern lot line with a width of 8'-0" (a minimum width of 5'-0" is required for each side yard); and

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

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

WHEREAS, the applicant submitted an FAR study which identified 21 homes within a 400-ft. radius of the site which have an FAR of 1.0 or greater, including five homes which were enlarged pursuant to a special permit granted by the Board under ZR § 73-622; and

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

WHEREAS, the Board finds that the proposed project

will not interfere with any pending public improvement project; and

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, 23-47, and 23-48; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received March 8, 2012"-(11) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 2,558 sq. ft. (1.02 FAR); an open space ratio of 54 percent; a side yard with a minimum width of 1'-0" along the northern lot line; a side yard with a width of 8'-0" along the southern lot line; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, June 12, 2012.

71-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Masjid Al-Taufiq, Inc., owner.

SUBJECT – Application May 23, 2011 – Variance (§72-21) to legalize the conversion of a mosque (*Masjid Al-Taufiq*), contrary to lot coverage (§24-11), front yard (§24-34), and side yard (§24-35) regulations. R4 zoning district.

PREMISES AFFECTED – 41-02 Forley Street, northeast corner of the intersection formed by Forley Street and

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Britton Avenue, Block 1513, Lot 6, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2012, at 1:30 P.M., for decision, hearing closed.

96-11-BZ

APPLICANT – Law Office of Marvin B. Mitzner, for 514-516 East 6th Street, owners.

SUBJECT – Application June 30, 2011 – Variance (§72-21) to legalize enlargements to an existing residential building, contrary to floor area (§23-145) and dwelling units (§23-22). R7B zoning district.

PREMISES AFFECTED – 514-516 East 6th Street, south side of east 6th Street, between Avenue A and Avenue B, Block 401, Lot 17, 18, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Marvin B. Mitzner.

ACTION OF THE BOARD – Off calendar.

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 zoning 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.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

117-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Sisters of St. Joseph, owners.

SUBJECT – Application August 15, 2011 – Variance (§72-21) to permit the development of a new athletic center accessory to an existing UG 3 school (*Mary Louis Academy*), contrary to maximum height and sky exposure

plane (§24-521), minimum rear yard, (§24-382) minimum front yard (§24-34) and nameplates or identification signs (§22-321). R1-2 and R5 zoning districts.

PREMISES AFFECTED – 86-50 Edgerton Boulevard, corner through lot bounded by Dalny Road, Wexford Terrace, and Edgerton Boulevard, block 9885, Lot 8, borough of Queens.

COMMUNITY BOARD # 8Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to July 17, 2012 at 1:30 P.M., for continued hearing.

168-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation Bet Yaakob, Inc., owner.

SUBJECT – Application October 27, 2011 – Variance (§72-21) to permit the construction of a Use Group 4A house of worship (*Congregation Bet Yaakob, Inc.*), contrary to floor area (§§113-11, 503, 51, 77-02, 23-141, 24-11), open space and lot coverage (§§23-141, 24-11, 77-02, 113-11), front, side and rear yard (§§113-11, 503, 543, 77-02, 23-464, 47, 471), height and setback (§§113-11, 503, 55, 77-02, 23-631, 633, 24-593), planting and landscaping (§§113-12, 23-45, 23-451, 113-30) and parking (§§113-58, 25-31) regulations. R5, R6A, and R5 (Ocean Parkway Special District) zoning district.

PREMISES AFFECTED – 2085 Ocean Parkway, L-shaped lot on the corner of Ocean Parkway and Avenue U, Block 7109, Lot 50 (tentative), Borough of Brooklyn.

PREMISES AFFECTED – 2085 Ocean Parkway, L-shaped lot on the corner of Ocean Parkway and Avenue U, Block 7109, Lot 50 (tentative), Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel, Michael Goldblum, Domenic M. Recchia, Theresa Scavo of CB 15, Ronald Tawil of CB 15 and Touvi Assis.

For Opposition: Stuart A. Klein.

ACTION OF THE BOARD – Laid over to July 24, 2012, at 1:30 P.M., for continued hearing.

191-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Zerillo Family Trust, owner.

SUBJECT – Application December 19, 2011 – Special Permit (§73-622) for the in-part legalization and enlargement of an existing single family home, contrary to maximum allowable floor area (§23-141(b)). R 4-1 zoning district.

PREMISES AFFECTED – 1246 77th Street, between 12th and 13th Avenues, Block 6243, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to July 17, 2012, at 1:30 P.M., for continued hearing.

MINUTES

20-12-BZ

APPLICANT – Herrick, Feinstein LLP, for LNA Realty Holdings, LLC, owner; Brookfit Ventures LLC, lessee.

SUBJECT – Application January 31, 2012 – Special Permit (§73-36) to allow the legalization of the operation of a physical culture establishment (*Retro Fitness*) in an under construction mixed residential/commercial building. M1-2/R6B zoning district.

PREMISES AFFECTED – 203 Berry Street, aka 195-205 Berry Street; 121-127 N. 3rd Street, northeast corner of Berry and N. 3rd Streets, Block 2351, Lot 1087, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Eldud Gothelf.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

44-12-BZ

APPLICANT – Sheldon Lobel, P.C., for 952-1064 Flatbush Avenue ELB LLC, owner; 1024 Flatbush Avenue Fitness Group, LLC, lessee.

SUBJECT – Application February 23, 2012 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within an existing four-story building. C4-4A zoning district.

PREMISES AFFECTED – 1024 Flatbush Avenue, west side of Flatbush Avenue between Regent Place and Beverly Road, Block 5125, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

48-12-BZ

APPLICANT – Law Office of Marvin B. Mitzner, LLC, for IGS Realty Co., owner.

SUBJECT – Application March 5, 2012 – Variance (§72-21) to permit the legalization of an existing 14-story commercial building for use as offices, contrary to Special Garment Center regulations (§121-11). C6-4 (GC, P2) zoning district.

PREMISES AFFECTED – 336 West 37th Street, between Eighth and Ninth Avenues, Block 760, Lot 63, Borough of

Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Marvin B. Mitzner.

ACTION OF THE BOARD – Laid over to July 17, 2012, at 1:30 P.M., for continued hearing.

78-12-BZ

APPLICANT – Francis R. Angelino, Esq., for Jonathan P. Rosen, owner; End 2 End Game Training LLC, lessee.

SUBJECT – Application April 4, 2012 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*End 2 End*). C6-4A zoning district.

PREMISES AFFECTED – 443 Park Avenue South, northeast corner of East 30th Street, Block 886, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Francis R. Angelino.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

91-12-BZ

APPLICANT – Jorge Lee, for Juan Noboa, owner.

SUBJECT – Application April 11, 2012 – Re-instatement (§11-411) of a previously approved variance permitting commercial retail (UG 6) in a residential district, which expired on March 29, 1998. R8 zoning district.

PREMISES AFFECTED – 846 Gerard Avenue, east side of Gerard Avenue, 132.37' south of East 161st Street, Block 2474, Lot 35, Borough of Bronx.

COMMUNITY BOARD #4BX

APPEARANCES –

For Applicant: Jorge Lee.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2012, at 1:30 P.M., for decision, hearing closed.

111-12-BZ

APPLICANT – Eric Palatnik, P.C., for Wells 60 Broad Street, LLC, owner; Bree and Oliver NYC Inc., lessee.

SUBJECT – Application April 19, 2012 – Special Permit (§73-36) for a physical culture establishment (*Cross Fit Wall Street*). C5-5 (LM) zoning district.

PREMISES AFFECTED – 60 New Street, 54-68 Broad Street; 52-66 New Street, north of Beaver Street, Block 24,

MINUTES

Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Trevis Savage.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17,
2012, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.