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79-12-BZ
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80-12-BZ
140 East 63rd Street, southeast corner of intersection of East 63rd Street and Lexington Avenue, Block 1397, Lot(s) 7505, Borough of **Manhattan, Community Board: 08**. Special Permit (§73-36) to permit the operation of a physical culture establishmen. C1-8X and R8B zoning districts. C1-8X/R8B district.

81-12-BZ
98-01/05 Metropolitan Avenue, northeast corner of 69th Road, Block 3207, Lot(s) 26 & 33, Borough of **Queens, Community Board: 06**. Special Permit (§73-243) to permit the demolition and reconstruction of an eating and drinking establishment (Use Group 6) with an accessory drive-through and on-site parking. C1-3/R3-2/R3A district.

82-12-BZ
2011 East 22nd Street, east side of East 22nd Street between Avenue S and Avenue T., Block 7301, Lot(s) 55, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for the enlargement of an existing single family semi-detached home contrary to floor area, open space and lot coverage (ZR 23-141); side yards (ZR 23-461); perimeter wall height (ZR 23-631) and less than the required rear yard (ZR 23-47). R3-2 zoning district. R3-2 district.

83-12-A
653 Bruckner Boulevard, intersection of Bruckner Boulevard and Timpson Place, Block 2603, Lot(s) 115, Borough of **Bronx, Community Board: 02**. Appeal from determination of Bronx Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in commercial district. C8-3 district.

84-12-A
653 Bruckner Boulevard, intersection of Bruckner Boulevard and Timpson Place, Block 2603, Lot(s) 115, Borough of **Bronx, Community Board: 02**. Appeal from determination of Bronx Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in commercial district. C8-3 district.

85-12-A
50 East 153rd Street, boundy by Metro North and the Metro North Station; an off ramp to the Major Deegan Expressway, E. 157th Street, E. 153rd Street and the Bronx Terminal Market., Block 2539, Lot(s) 132, Borough of **Bronx, Community Board: 04**. Appeal from determination of Bronx Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in manufacturing district. M1-1 district.

86-12-BZ
158 West 83rd Street, western boundary of the site is 150' east of Amsterdam Avenue on West 83rd Street., Block 1213, Lot(s) 58, Borough of **Manhattan, Community Board: 07**. Proposed enlargement would increase the building's floor area by 1,366' (4.9% increase above the underlying district regulations) pursuant to ZR §§73-03 & 73-63. The applicant does not propose to increase either the height of the proposed building (72.4 feet) of the oeverall number of units (22) from that which is permitted on as-of-right basis pursuant to the underlying R8B zoning district regulations. C2-5/R8B district.

87-12-BZ
1720-28 Sheepshead Bay Road, 123.21' south of the intersection of Vorhies Avenue, Block 8770, Lot(s) 12, Borough of **Brooklyn, Community Board: 15**. This is an application for a new special permit, pursuant to Z.R.§73-36 to permit the continued operation by Bally's Total Fitness of the existing physical culture establishment (PCE) at this site. The existing PCE expired on May 5, 2007 and this application seeks to re-establish the PCE at this location. C2-2/R4 district.

88-12-A
462 11th Avenue, 11th Avenue between 37th and 38th Street., Block 709, Lot(s) 3, Borough of **Manhattan, Community Board: 04**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in commercial district. C6-4 district.

89-12-A
462 11th Avenue, 11th Avenue between 37th and 38th Street., Block 709, Lot(s) 3, Borough of **Manhattan, Community Board: 04**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in commercial district. C6-4 district.

90-12-A
111 Varick Street, Varick Street between Broome and Dominick Street., Block 578, Lot(s) 71, Borough of **Manhattan, Community Board: 02**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in manufacturing district. M1-6 district.

91-12-BZ
846 Gerard Avenue, East side of Gerard Avenue, 132.37' south of East 161st Street., Block 2474, Lot(s) 35, Borough of **Bronx, Community Board: 04**. Extension the terms of the variance granted under BSA Cal. No. 1003-48-BZ and legalize one story extension for a 1 story commercial building with a total floor area of 4,316.44 square feet. R8 district.

92-12-A
571 Riverside Drive, East side of Riverside Drive between 134th and 135th Streets., Block 2001, Lot(s) 1, Borough of **Manhattan, Community Board: 02**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in commercial district. C6-2/MMU district.

93-12-A
571 Riverside Drive, East side of Riverside Drive between 134th and 135th Street., Block 2001, Lot(s) 1, Borough of **Manhattan, Community Board: 02**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in commercial district. C6-2/MMU district.

94-12-A
571 Riverside Drive, East side of Riverside Drive between 134th and 135th Street, Block 2001, Lot(s) 1, Borough of **Manhattan, Community Board: 2**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in commercial district. C6-2/MMU zoning district. C6-2/MMU district.

95-12-A
2284 Twelfth Avenue, west side of Twelfth Avenue between 125th Street and 131st Street., Block 2004, Lot(s) 40, Borough of **Manhattan, Community Board: 9**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in manufacturing district. M1-2 district.

96-12-A
2284 Twelfth Avenue, west side of Twelfth Avenue between 125th Street and 131st Street., Block 2004, Lot(s) 40, Borough of **Manhattan, Community Board: 9**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in manufacturing district. M1-2 district.

97-12-A
620 12th Avenue, East side of 12th Avenue, between 47th and 48th Streets., Block 1095, Lot(s) 11, Borough of **Manhattan, Community Board: 04**. Appeal from determination of Manhattan Borough Commissioner of Department of Buildings regarding right to maintain existing advertising sign in manufacturing district. M1-5/CL district.

98-12-A
620 12th Avenue, East side of 12th Avenue, between 47th and 48th Streets, Block 1095, Lot(s) 11, Borough of **Manhattan, Community Board: 04**. Appeal from determination of Manhattan Borough Commissioner of Department of Buildings regarding right to maintain existing advertising sign in manufacturing district. M1-5/CL district.

99-12-A
393 Canal Street, intersection of Canal, Laight Street and Avenue of the Americas., Block 227, Lot(s) 7, Borough of **Manhattan, Community Board: 2**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in manufacturing district. M1-5B district.

100-12-A
393 Canal Street, intersection of Canal, Laight Street and Avenue of the Americas, Block 227, Lot(s) 7, Borough of **Manhattan, Community Board: 2**. Appeal from determination of Manhattan Borough Commissioner of the Department of Buildings regarding right to maintain existing advertising sign in manufacturing district. M1-5B district.

DOCKET

101-12-A
13-17 Laight Street, south side of Laight Street between Varick Street and St. John's Lane., Block 212, Lot(s) 18, Borough of **Manhattan, Community Board: 1**. Appeal from determination of Manhattan Borough Commissionr of the Department of Buildings regarding right to maintain existing advertising sign in manufacturing district. M1-5 district.

102-12-A
489 Sea Breeze Walk, East side of Sea Breeze Walk, 100.2" north of Oceanside Avenue., Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14**. The street giving access to the existing building to be replaced is not duly placed on the map of the City of N.Y. contrary to Art. 3 Sec.36 G.C.L. the existing building to be replaced 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. The proposed upgrade of the private disposal system is contrary to the DOB policy. R4 district.

103-12-A
74-76 Adelphi Street, located on the west side of Adelphi Street, south of Park Avenue with frontage along Adelphi Street., Block 2044, Lot(s) 52,53, Borough of **Brooklyn, Community Board: 2**. Common law vested rights application to restore permits issued prior to July 25, 2007 and authorite DOB to issue all related and relevant permits in connection with the proposed project at the site. 5RB district.

104-12-BZ
178-21 -179-19 Hillside Avenue, north side of Hillside Avenue between 178th Street and Midland Parkway, Block 9937, Lot(s) 60, Borough of **Queens, Community Board: 8**. Application is filed pursuant to ZR§11-411 seeking to re-instate and extend the term of the variance that permits accessory retail parking on the R5 portion of a zoning lot that is split by district boundaries. The application also requests an extension of time to obtain a Certificate of Occupancy and a waiver of the Board's Rules of Practice and Procedure. C2-4/R6A and R5 district.

105-12-BZ
450 Castle Hill Avenue, southeast corner of Castle Hill and Lacombe Avenues., Block 3511, Lot(s) 30, Borough of **Bronx, Community Board: 9**. Facility is 21,340 sf two story plus basement community facility operating with day care and adult day hab programs operated by the not-for-profit organization Leake and Watts services Inc. Proposal is to allow a new elevator for ADA compliance. R-5 district.

106-12-BZ
2102 Jerome Avenue, east side of Jerome Avenue between East Burnside Avenue and East 181st Street., Block 3179, Lot(s) 20, Borough of **Bronx, Community Board: 5**. The application is filed pursuant to Z.R. § 73-50 and requests a special permit to allow for the development of a new one-story Use Group 6 retail store. The special permit is required because the proposed building is situated at the eastern lot line of the premises, and thus does not comply with the requirement of ZR§33-292 for a 30 foot rear for a zoning lot in a C8 district along a district boundary coincident with a residential zoning district. C8-3 district.

107-12-BZ
600/18 Third Avenue, west side of 3rd Avenue between E. 39th Street and E. 40th Street., Block 895, Lot(s) 45, Borough of **Manhattan, Community Board: 6**. Special Permit to allow physical culture establishment within existing commercial building. C5-3,C5-2.5,R8B district.

108-12-A
46-12 Third Avenue, west side of Third Avenue between 46th Street and 47th Street., Block 185, Lot(s) 25, Borough of **Brooklyn, Community Board: 07**. Appeal from Department of Buildings' determinations that signs are not entitled to non-conforming use status as accessory business or non-commercial signs, pursuant to Z.R.§§42-58 and 52-61. M1-2D district.

109-12-A
46-12 Third Avenue, west side of Third Avenue between 46th Street and 47th Street., Block 185, Lot(s) 25, Borough of **Brooklyn, Community Board: 07**. Appeal from Department of Buildings' determinations that signs are not entitled to non-conforming use status as accessory business or non-commercial signs, pursuant to Z.R. §§42-58 and 52-61. M1-2D district.

110-12-A
100 Varick Street, East side of Varick Street between Broome and Watts Streets., Block 477, Lot(s) 35,42, 44 & 76, Borough of **Manhattan, Community Board: 2**. This application seeks a variance of §§26(7) and 30 of the MDL (pursuant to Section 310 of the MDL) to facilitate the construction of a new, 14-story residential building with ground floor retail in an M1-6 district. M1-6 district.

111-12-BZ
60 New Street, 54-68 Broad Street; 52-66 New Street; north of Beaver Street., Block 24, Lot(s) 1, Borough of **Manhattan, Community Board: 1**. Special Permit application pursuant to Z.R.§73-36 to permit the proposed physical culture establishment at a portion of the ground

floor of the premises which is located within a C5-5(LM) zoning district. C5-5(LM) district.

112-12-BZ
244 Demorest Avenue, southwest corner of intersection of Demorest Avenue and Leonard Avenue., Block 444, Lot(s) 15, Borough of **Staten Island, Community Board: 1**. Application for special permit to allow enlargement of existing onef-family dwelling that will decrease the open space ratio, but will not decrease the ratio to less than 90 percent of that which is required in the underlying R2 zoning district. R2 district.

113-12-BZ
32-05 Parsons Boulevard, northeast corner of Parsons Boulevard and 32nd Avenue., Block 4789, Lot(s) 14, Borough of **Queens, Community Board: 7**. Variance under ZR 72-21 to permit parapet wall to exceed 42", and resulting front wall height and related structure contrary to ZR24-521 and ZR24-51. R2A district.

114-12-A
24-59 32nd street, 32nd Street at Grand Central Parkway Service Road, Block 837, Lot(s) 95, Borough of **Queens, Community Board:** . Pre-existing advertising sign district.

115-12-BZ
701/745 64th Street, Seventh and Eighth Avenues, Block 5794, Lot(s) 150&165, Borough of **Brooklyn, Community Board: 10**. Proposed reduction in the number of accessory off-street parking spaces required by ZR §36-21 for uses in parking requirements category B1 in use Use Group 6. C4-2A district.

116-12-BZ
1477 Third Avenue, Thrid Avenue between E. 83rd Street and e 84th Streets., Block 1529, Lot(s) A, Borough of **Manhattan, Community Board: 8**. Application for legalization of an existing PCE under ZR§73-36 requires BSA approval. C1-9 district.

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

CALENDAR

MAY 8, 2012, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning. May 8, 2012, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

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 (MDL), 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

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

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 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

APPEALS CALENDAR

32-12-A
APPLICANT – Gary Lenhart, for The Breezy Point Cooperative Inc., owner; Noreen & William Goodwin, lessees.
SUBJECT – Application February 8, 2012 – The proposed reconstruction and enlargement of the existing single family dwelling not fronting a mapped street is contrary to Article 3, Section 36 of the General City Law. The proposed upgrade to the existing private disposal system located partially in the bed of the service road is contrary to Building Department policy.
PREMISES AFFECTED – 110 Beach 220th Street, west side Beach 220th Street, 160' south of Breezy Point Boulevard, Block 16350, Lot p/o400, Borough of Queens.
COMMUNITY BOARD #14Q

51-12-A
APPLICANT – Zygmunt Staszewski, for Breezy Point Cooperative Inc., owner; Patricia Davey, lessee.
SUBJECT – Application March 7, 2012 – The proposed reconstruction of the existing building is located on a site where the building lies partially in the bed of a mapped Beach 216 Street as per Article 3, Section 35 of the General City Law and contrary to the Department of Building policy. The proposed upgrade of the private disposal system is not located in the bed of a mapped street. R4 zoning district.
PREMISES AFFECTED – 46 Tioga Walk, east of Beach 216th Street, 45' north of 6th Avenue, Block 16350, Lot 400, Borough of Queens.
COMMUNITY BOARD #14Q

52-12-A
APPLICANT – Zygmunt Staszweski, for Breezy Point Cooperative Inc., owner; Michael Mullaly, lessee.
SUBJECT – Application March 7, 2012 –The proposed reconstruction of the existing building is located on a site where the building lies in the bed of a mapped street as per Art 3 Sect. 35 of the GCL, is not fronting a mapped street as per Art 3 Sect. 36 GCL and contrary to the Department of Buildings policy. The proposed upgrade of the private disposal system is located in the bed of a mapped street. 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

CALENDAR

MAY 8, 2012, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 8, 2012, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

42-10-BZ
APPLICANT – Sheldon Lobel, P.C., for 2170 Mill Avenue LLC, owner.
SUBJECT – Application March 29, 2010 – Variance (§72-21) to allow for a mixed use building contrary to use (§22-10), floor area, lot coverage, open space (§23-141), maximum dwelling units (§23-22), height (§23-631). R3-1/C2-2 zoning district.
PREMISES AFFECTED – 2170 Mill Avenue, 116' west of intersection with Strickland Avenue, Block 8470, Lot 1150, Borough of Brooklyn.
COMMUNITY BOARD #18BK

117-11-BZ
APPLICANT – Sheldon Lobel, P.C., for Sisters of St. Joseph, owners.
SUBJECT – Application August 15, 2011 – Variance (ZR §72-21) to permit the development of a new athletic center (*Sisters of St. Joseph Athletic Center*) building accessory to an existing Use Group 3 school. R1-2 & 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

5-12-BZ
APPLICANT – Moshe M. Friedman, P.E., for Aaron Herzog, owner.
SUBJECT – Application January 12, 2012 – Variance (§72-21) for the addition of a third floor to an existing two family residential building which is contrary to front yard requirements ZR §23-146(c) front yards and side yard requirement ZR §23-146(d). R5 Borough Park zoning district.
PREMISES AFFECTED – 812 Dahill road, northwest corner of Dahill Road and 19th Avenue, Block 5445, Lot 39, Borough of Brooklyn.
COMMUNITY BOARD #12BK

8-12-BZ
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 (ZR §23-141); side yards (§23-461) and less than the required rear yard (§23-47); R4 zoning district in the 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

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 – Application filed pursuant to ZR§73-36 seeking a special permit to allow the operation of a physical culture establishment (*Flatbush Fitness Group*) within an existing four-story building that is located in a 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

Jeff Mulligan, Executive Director

MINUTES

REGULAR MEETING
TUESDAY MORNING, APRIL 24, 2012
10:00 A.M.

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

SPECIAL ORDER CALENDAR

389-37-BZ
APPLICANT – The Law Office of Fredrick A. Becker, for Rosemarie Fiore and George Fiore.
SUBJECT – Application February 22, 2012 – Extension of Time to obtain a Certificate of Occupancy of previously granted variance for the operation of a UG8 parking lot which expired on May 11, 2011; waiver of the Rules. R5/C1-2 zoning district.
PREMISES AFFECTED – 31-08 to 31-12 45th Street, southwest corner of 45th Street and 31st Avenue, Block 710, Lot 1, Borough of Queens.
COMMUNITY BOARD #1Q
APPEARANCES –
For Applicant: Fredrick A. Becker.
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, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to obtain a certificate of occupancy for a previously granted variance for the operation of a Use Group 8 parking lot; and

WHEREAS, a public hearing was held on this application on March 27, 2012, after due notice by publication in *The City Record*, and then to decision on April 24, 2012; and

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

WHEREAS, the subject site is located on the southwest corner of 45th Street and 31st Avenue, within a C1-2 (R5) zoning district; and

WHEREAS, the site is occupied by an open parking lot; and

WHEREAS, the Board has exercised jurisdiction over the site since April 5, 1938 when, under the subject calendar number, the Board granted a variance to permit the parking and storage of more than five motor vehicles on the site, for a term of two years; and

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

WHEREAS, most recently, on May 11, 2010, the Board granted a ten-year extension of term, to expire on June 13, 2018 and an amendment to remove the condition requiring a financial analysis examining the feasibility of residential use at the site; a condition of the grant was that a certificate of occupancy be obtained by May 11, 2011; and

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

WHEREAS, the applicant represents that it was unable to obtain a certificate of occupancy within the stipulated time in part due to procedural issues at the Department of Buildings; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated April 5, 1938, so that as amended this portion of the resolution shall read: "to extend the time to obtain a certificate of occupancy to April 24, 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 the term of the grant shall expire on June 13, 2018;

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

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

THAT a new certificate of occupancy shall be obtained by April 24, 2013;

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 Application No. 410230245)

Adopted by the Board of Standards and Appeals April 24, 2012.

764-56-BZ
APPLICANT – Alfonso Duarte, P.E., for Anthony Panvini, owner.
SUBJECT – Application December 2, 2011 – Extension of Term (§11-411) of a variance permitting the operation of an automotive service station (UG 16B) with accessory uses and the sale of used cars (UG 16B), which expires on October 22, 2012. C1-2/R3-2 zoning district.
PREMISES AFFECTED – 200-05 Horace Harding Expressway, north side between Hollis Ct., Boulevard and 201st Street, Block 741, Lot 325,000.00, Borough of Queens.
COMMUNITY BOARD #11Q
APPEARANCES –
For Applicant: Alfonso Duarte.

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, this is an application for a re-opening and an extension of term of a previously granted variance to permit the operation of a gasoline service station with accessory uses and the sale of cars, which will expire on October 22, 2012; and

WHEREAS, a public hearing was held on this application on February 14, 2012, after due notice by publication in *The City Record*, with a continued hearing on March 20, 2012, and then to decision on April 24, 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 11, Queens, recommends approval of this application, with the following conditions: (1) there be no parking on the sidewalk; (2) the site be maintained free of debris and graffiti; (3) all graffiti be removed within 48 hours; (4) all signs be maintained in accordance with the BSA-approved plans; (5) the sale of only five used cars be permitted; (6) all conditions appear on the certificate of occupancy; and (7) a new certificate of occupancy be obtained within one year from the date of the grant; and

WHEREAS, Queens Borough President Helen Marshall recommends approval of this application, subject to the conditions stipulated by the Community Board; and

WHEREAS, the subject site is located on a corner through lot bounded by 201st Street to the east, the Horace Harding Expressway to the south, and Hollis Court Boulevard to the west, within a C1-2 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 22, 1957 when, under the subject calendar number, the Board granted a variance to permit the construction of a gasoline service station with accessory uses, for a term of 15 years; and

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

WHEREAS, most recently, on December 17, 2002, the Board granted a ten-year extension of term, which expires on October 22, 2012, and an amendment to permit the sale of used cars; and

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

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

WHEREAS, at hearing, the Board raised concerns about the site's compliance with C1 district signage regulations; and

WHEREAS, in response, the applicant submitted revised plans and a signage analysis reflecting that the site complies with C1 district signage regulations; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated October 22, 1957, so that as amended this portion of the resolution shall read: "to extend the term for ten years from October 22, 2012, to expire on October 22, 2022; *on condition* that all use and operations shall substantially conform to plans filed with this application marked 'Received January 31, 2012'-(2) sheets and 'April 3, 2012'-(1) sheet; and *on further condition*:

THAT the term of the grant will expire on October 22, 2022;

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

THAT any graffiti identified on the site will be removed within 48 hours;

THAT all signage on the site will comply with C1 district regulations;

THAT a maximum of five parking spaces on the site be utilized for the sale of used cars;

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

THAT a new certificate of occupancy will be obtained by April 24, 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."

Adopted by the Board of Standards and Appeals April 24, 2012.

636-70-BZ
APPLICANT – Walter T. Gorman, P.E., for East River Petroleum Realty LLC, owner; Kings 108 Car Care, Inc. (Mobile S/S), lessee.
SUBJECT – Application January 24, 2012 – Amendment to an approved Special Permit (§73-211) for the operation of an automotive service station (UG 16B) with accessory uses. C2-2/R6 zoning district.
PREMISES AFFECTED – 105-45 to105-55 Horace Harding Expressway, northwest corner 108th Street, Block 1694, Lot 23. Borough of Queens.
COMMUNITY BOARD #4Q
APPEARANCES –
For Applicant: Chetran 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 Montanez 5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance for an automotive service station with accessory uses (Use Group 16); and

WHEREAS, a public hearing was held on this application on February 28, 2012 after due notice by publication in *The City Record*, with a continued hearing on March 27, 2012, and then to decision on April 24, 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 4, Queens, states that it has no objection to this application; and

WHEREAS, the site is located on a corner through lot bounded by Horace Harding Expressway to the south, Granger Street to the west, and 108th Street to the east, within a C2-2 (R6) zoning district; and

WHEREAS, the subject site is occupied by an automotive service station with accessory uses; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 2, 1971 when, under the subject calendar number, the Board granted a special permit to allow the reconstruction of an existing automotive service station with accessory uses; and

WHEREAS, subsequently, the grant was amended by the Board on various occasions; and

WHEREAS, most recently, on March 23, 1999, the Board granted an amendment to permit the conversion of an existing building to a convenience store, the removal of two existing pump islands to be replaced with five new pump islands and canopy, and the discontinuance of the automotive repair use; and

WHEREAS, the applicant states that the owner did not pursue the modifications permitted under the 1999 grant, and now requests an amendment to allow the site to revert to its use and operation prior to the 1999 grant; and

WHEREAS, at hearing, the Board directed the applicant to clarify how the site operates and whether it is in compliance with the conditions from prior grants; and

WHEREAS, in response, the applicant submitted an operation plan reflecting that the site consists of a gasoline service station and snack shop which operate 24 hours per day, and an automotive repair shop which operates Monday through Friday, from 8:00 a.m. to 6:00 p.m., Saturday, from 8:00 a.m. to 5:00 p.m., and closed on Sunday; and

WHEREAS, the applicant also submitted compliance charts reflecting that the site is in compliance with all relevant conditions from prior Board grants; and

WHEREAS, at hearing, the Board also questioned whether the applicant could eliminate any of the curb cuts on the site; and

WHEREAS, in response, the applicant submitted a circulation plan and states that in order to move vehicles safely and quickly off the site so that on-site congestion can be avoided, it is necessary to dedicate one of the Horace Harding Expressway curb cuts exclusively for exiting traffic, and that if the owner had to eliminate one of the five curb cuts on the site it might not be able to dedicate one curb cut solely for egress; and

WHEREAS, based upon its review of the record, the Board finds the requested amendment to the approved plans 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 2, 1971, so that as amended this portion of the resolution shall read: "to permit the noted modifications to the approved plans; *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 24, 2012'–(6) sheets; and *on further condition:*

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

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

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

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

(DOB Application No. 420344130)

Adopted by the Board of Standards and Appeals April 24, 2012.

172-86-BZ

APPLICANT – Sheldon Lobel, P.C., for Clearview Mortgage Bank Corporation, owner.

SUBJECT – Application November 4, 2011 – Extension of Term of an approved Variance (§72-21) which permitted the construction of a two-story UG6 professional office building which expires on March 31, 2012. R2 zoning district.

PREMISES AFFECTED – 256-10 Union Turnpike, south side of Union Turnpike between 256th and 257th Streets, Block 8693, Lot 14, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Nora Martins.

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, this is an application for a reopening and an extension of the term for a previously granted variance for the construction of a two-story professional office building (Use Group 6); and

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

publication in *The City Record*, with a continued hearing on March 27, 2012, and then to decision on April 24, 2012; and

WHEREAS, Community Board 13, Queens, states that it has no objection to this application; 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, the subject site is located on the south side of Union Turnpike, between 256th Street and 257th Street, within an R2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since March 31, 1987 when, under the subject calendar number, the Board granted a variance to permit the construction of a two-story professional office building (Use Group 6) within an R2 zoning district, for a term of 15 years; and

WHEREAS, on January 7, 2003, the Board granted a ten-year extension of term, which expired on March 31, 2012; and

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

WHEREAS, at hearing, the Board questioned whether the signage at the site complies with C1 district regulations; and

WHEREAS, in response, the applicant submitted a signage analysis which reflects that the signage on the site complies with C1 district regulations 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 31, 1987, so that as amended this portion of the resolution shall read: "to extend the term for ten years from March 31, 2012, to expire on March 31, 2022; *on condition* that all use and operations shall substantially conform to plans filed with this application marked 'Received November 4, 2011'-(5) sheets and 'April 10, 2012'-(1) sheet; and *on further condition*:

THAT the term of the grant will expire on March 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. 400227447)

Adopted by the Board of Standards and Appeals April 24, 2012.

162-95-BZ & 163-95-BZ

APPLICANT – Sheldon Lobel, P.C., for Salvatore Bonavita, owner; Pelham Bay Fitness Group, LLC, lessee.

SUBJECT – Application April 3, 2011 – Extension of Term to permit the continued operation of a Physical Cultural Establishment (*Planet Fitness*) which expired on July 30, 2006; Amendment to increase the floor area of the establishment. Waiver of the rules. C2-4/R6 and R7-1 zoning district.

PREMISES AFFECTED – 3060 & 3074 Westchester Avenue, Southern side of Westchester Avenue between Mahan Avenue and Hobart Avenue. Block 4196, Lots 9, 11 & 13, Borough of Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Nora Martins.

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, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of the term of previously granted special permits for a physical culture establishment ("PCE"), which expired on July 30, 2006, and an amendment to legalize the extension of the PCE space; and

WHEREAS, a public hearing was held on this application on January 31, 2012, after due notice by publication in *The City Record*, with a continued hearing on March 27, 2012, and then to decision on April 24, 2012; and

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

WHEREAS, Community Board 10, Bronx, raised concerns with parking at the site and the proposed 24-hour operation of the PCE, and recommends approval of this application, on condition that (1) there be accessory off-street attendant parking for 25 motor vehicles; and (2) the hours of operation be limited to 6:00 a.m. to midnight, seven days per week; and

WHEREAS, the PCE is located on the southeast side of Westchester Avenue, between Mahan Avenue and Hobart Avenue, partially within a C2-4 (R6) zoning district and partially within a C2-4 (R7-1) zoning district; and

WHEREAS, the site comprises three separate tax lots (Lots, 9, 11, and 13) occupied by two adjoining one-story and mezzanine commercial buildings; the 3060 Westchester Avenue building is located on Lot 9, and the 3074 Westchester Avenue building is located on Lot 11 and a portion of Lot 13; and

WHEREAS, the applicant states that the buildings have an opening between them and the subject PCE operates in both buildings; and

WHEREAS, the PCE currently occupies a combined

total of 17,212 sq. ft. of floor area on the first floors and mezzanines of the two buildings (8,551 sq. ft. of floor area in the 3060 Westchester Avenue building and 8,661 sq. ft. of floor area in the 3074 Westchester Avenue building); and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 30, 1996 when, under the subject calendar numbers, the Board granted special permits for a PCE in the subject buildings for a term of ten years, which expired on July 30, 2006; and

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

WHEREAS, the applicant also requests an amendment to legalize the extension of the PCE space within the 3060 Westchester Avenue building (BSA Cal. No. 162-95-BZ); and

WHEREAS, the applicant states that at the time of the Board's original approval, the southeast corner of the first floor and the corridor along the western wall of the 3060 Westchester Avenue building were used by the PCE's owners as an office (Use Group 6) and the mezzanine space directly above the office area was unused, such that the total combined floor area of the PCE was 14,334 sq. ft.; and

WHEREAS, the applicant now seeks to legalize the conversion of the first floor office area and unused mezzanine area in the 3060 Westchester Avenue building to PCE use, accounting for approximately 2,900 sq. ft. of additional PCE floor area, for a combined total floor area of 17,212 sq. ft.; and

WHEREAS, the applicant notes that the PCE now operates as Planet Fitness (formerly Gold's Gym) but that the owner and operator of the PCE has not changed; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant states that it provides an attended parking lot for the PCE's patrons with a maximum capacity of 25 vehicles, and states that it will station the parking attendant outdoors in the parking lot during the PCE's peak hours of operation, in order to maneuver vehicles as needed in the lot; and

WHEREAS, as to the Community Board's concerns regarding the proposed 24-hour operation of the PCE, the applicant states that the owners of the subject PCE have been operating at this site since 1996 and have maintained the current 24-hour operation at this location since 2001, and that the PCE's hours of operation have not altered the character of the neighborhood; and

WHEREAS, the applicant notes that a 24-hour automotive service station is located directly across Westchester Avenue from the site, and unlike the automotive service station, the PCE is located entirely within an enclosed building; and

WHEREAS, the applicant acknowledges that past noise complaints at the site resulted from the loitering of patrons in the parking lot during the overnight hours, but states that the PCE has taken the following measures to address these concerns: (1) installed signs in the parking area and building advising members to be respectful of their neighbors when arriving and leaving the PCE; (2) instructed the staff to monitor the parking area and street in front of the building to ensure patrons are not loitering before or after using the PCE; (3) installed security cameras in the parking area to enable staff to better monitor the lot; (4) instituted a policy where PCE membership is subject to revocation if members create noise problems for the neighbors; and (5) instructed staff to document and refer any complaints from neighbors to the attention of the PCE's Director of Operations, who has attended Community Board meetings and provided personal contact information to the Community Board members and residents; and

WHEREAS, in order to prevent the PCE's hours of operation from adversely affecting the adjoining residential neighbors, the applicant has also agreed to close the PCE's parking lot from the hours of 12:00 a.m. through 6:00 a.m.; and

WHEREAS, the applicant submitted revised plans reflecting the installation of a gate at the parking lot's entrance, which the applicant states will be closed by the PCE's staff during the overnight hours; and

WHEREAS, accordingly, the Board finds that the applicant has submitted sufficient evidence to establish that the proposed 24-hour operation of the PCE will not have a negative impact on the surrounding neighborhood, but the Board will limit the term to two years in order to monitor the effectiveness of the PCE's operating conditions designed to address the concerns raised by the community; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on July 30, 1996, so that as amended this portion of the resolution shall read: "to extend the term for a period of two years from the date of this grant, to expire on April 24, 2014, and to permit the noted modifications to the BSA-approved plans, *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 April 10, 2012"–(5) sheets; and *on further condition:*

THAT the term of this grant shall expire on April 24, 2014;

THAT accessory off-street attendant parking for 25 motor vehicles will be provided on the site;

THAT the parking lot will be closed between the hours of 12:00 a.m. and 6:00 a.m.;

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

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

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

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

(DOB Application No. 101962814)

Adopted by the Board of Standards and Appeals, April 24, 2012.

442-42-BZ
APPLICANT – Eric Palatnik, P.C., for Cropsey-20th Avenue Corp, owner.
SUBJECT – Application November 17, 2011 – Amendment (§11-412) to enlarge an existing gasoline service station (*Shell*) and legalize the conversion of repair bays to an accessory convenience store. R-5 zoning district.
PREMISES AFFECTED – 2001/2011 Cropsey Avenue, northeast corner of 20th Avenue and Cropsey Avenue, Block 6442, Lot 5, Borough of Brooklyn.
COMMUNITY BOARD #11BK
APPEARANCES –
For Applicant: Eric Palatnik.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0
ACTION OF THE BOARD – Laid over to May 8, 2012, at 10 A.M., for decision, hearing closed.

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 #2M
APPEARANCES –
For Applicant: Chetran Budhu.
ACTION OF THE BOARD – Laid over to May 15, 2012, at 10 A.M., for continued hearing.

188-78-BZ
APPLICANT – Eric Palatnik, P.C., for Anthony Berardi, owner.
SUBJECT – Application August 4, 2011 – Amendment (§11-413) to a previously granted Variance (§72-21) to add (UG16) automobile body with spray painting booth and automobile sales to an existing (UG16) automobile repair and auto laundry. R5 zoning district.
PREMISES AFFECTED – 8102 New Utrecht Avenue, southwest corner of New Utrecht Avenue and 81st Street, Block 6313, Lot 31, Borough of Brooklyn.
COMMUNITY BOARD #11BK
APPEARANCES –
For Applicant: Eric Palatnik.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0
ACTION OF THE BOARD – Laid over to May 15, 2012, at 10 A.M., for decision, hearing closed.

1259-79-BZ
APPLICANT – Sheldon Lobel, P.C., for 29 West 26th Street, LLC c/o Madison Realty Capital, L.P., owner.
SUBJECT – Application December 15, 2011 – Extension of Time to Complete Construction of a Variance (§72-21) to convert the fourth and sixth floors of an existing building from manufacturing lofts to residential use which expired on April 27, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on October 27, 2011; waiver of the Rules. M1-6 zoning district.
PREMISES AFFECTED – 29 West 26th Street, north side of West 26th Street, 350' east of 6th Avenue, Block 828, Lot 16, Borough of Manhattan.
COMMUNITY BOARD #5M
APPEARANCES –
For Applicant: Nora Martins.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0
ACTION OF THE BOARD – Laid over to May 8, 2012, at 10 A.M., for decision, hearing closed.

271-90-BZ
APPLICANT – Rothkrug Rothkrug & Spector LLP, for EPT Realty Corp., owner.
SUBJECT – Application October 11, 2011 – Extension of Term (§11-411) for the continued operation of a UG16 automotive repair shop with used car sales which expired on October 29, 2011. R7X/C2-3 zoning district.
PREMISES AFFECTED –68-01/5 Queens Boulevard, northeast corner of intersection of Queens Boulevard and 68th Street, Block 1348, Lot 53, Borough of Queens.
COMMUNITY BOARD #2Q
APPEARANCES –
For Applicant: Todd Dale.
ACTION OF THE BOARD – Laid over to June 6, 2012, at 10 A.M., for continued hearing.

290-06-BZ
APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Rusabo 368 LLC, owner; Great Jones Lafayette LLC, lessee.
SUBJECT – Application February 2, 2012 – Amendment of an approved variance (§72-21) for a new residential building with ground floor commercial, contrary to use regulations.

The amendment requests an increase in commercial floor area and a decrease in the residential floor area. M1-5B zoning district
PREMISES AFFECTED – 372 Lafayette Street, block bounded by Lafayette, Great Jones and Bond Streets, Shinbone Alley, Block 530, Lot 13, Borough of Manhattan.
COMMUNITY BOARD #2M
APPEARANCES –
For Applicant: Gary Tarnoff.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to May 15, 2012, at 10 A.M., for decision, hearing closed.

203-07-BZ
APPLICANT – Sheldon Lobel, P.C., for Gastar Inc., owner.
SUBJECT – Application December 30, 2011 – Amendment to a previous variance (§72-21) which allowed for the construction of a mixed use building, contrary to floor area an open space regulations. The amendment requests changes to the interior layout which would decrease medical office space, increase the number of dwelling units from 28 to 36, and increase parking from 58 to 61 spaces. R6/C2-2 zoning district.
PREMISES AFFECTED – 137-35 Elder Avenue, northwest corner of Main Street and Elder Avenue. Block 5140, Lot 40. Borough of Queens.
COMMUNITY BOARD #7Q
APPEARANCES –
For Applicant: Nora Martins.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

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

248-08-BZ
APPLICANT – New York City Board of Standards
OWNER – Joseph Alexander/New Covenant Christian Church, Inc.
SUBJECT – Application October 6, 2008 – Dismissal for Lack of Prosecution –Variance (§72-21) to permit the development of a religious-based school and church, contrary to floor area and floor area ratio (§24-11), rear yard (§24-36), and parking (§25-31). R5 zoning district.
PREMISES AFFECTED – 3550 Eastchester Road, eastern side of Eastchester Road between Hicks Street and Needham Avenue, Block 4726, Lot 7, 36, 38, Borough of Bronx.
COMMUNITY BOARD #12BX
APPEARANCES –
For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Off calendar.

APPEALS CALENDAR

206-10-A thru 210-10-A
APPLICANT – Philip L. Rampulla, for Island Realty Associate, LLC, owner.
SUBJECT – Application November 1, 2010 – Proposed construction of a single family home located within the bed of a mapped street, contrary to General City Law Section 35 and §72-01-(g). R1-2 zoning district.
PREMISES AFFECTED – 3399, 3403, Richmond Road and 14, 15, 17 Tupelo Court, Block 2260, Lot 24, 26, 64, 66, 68, Borough of Staten Island.
COMMUNITY BOARD #2SI
APPEARANCES –
For Applicant: Philip L. Rampulla.
ACTION OF THE BOARD – Applications 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 decisions of the Staten Island Borough Commissioner, dated February 13, 2012, acting on Department of Buildings Application Nos. 520048948, 520048957, 520048984, 520048975, and 520048966 read in pertinent part:

> Proposed construction of a one family residence building within bed of a mapped street is contrary to General City Law 35 and not permitted; and

WHEREAS, this is an application to permit the proposed construction of five single-family homes located within the bed of a mapped street, contrary to Section 35 of the General City Law; and

WHEREAS, a public hearing was held on this application on January 24, 2012, after due notice by publication in the *City Record*, with continued hearings on February 28, 2012 and March 27, 2012, and then to decision on April 24, 2012; and

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

WHEREAS, New York State Assembly Member Michael J. Cusick provided written testimony in opposition to this application; and

WHEREAS, New York State Assembly Member Louis R. Tobacco provided written testimony in opposition to this application; and

WHEREAS, New York State Senator Andrew J. Lanza provided written testimony requesting that the Board review the environmental and transportation issues associated with this application; and

WHEREAS, United States Congress Member Michael G. Grimm provided written testimony in opposition to this

application; and

WHEREAS, New Yorkers for Parks provided written testimony in opposition to this application; and

WHEREAS, representatives of the Richmondtown and Clarke Avenue Civic Association and the Grasmere Civic Association provided oral and written testimony in opposition to this application (collectively, the "Opposition"); and

WHEREAS, the Opposition raised the following primary concerns: (1) the proposal is in a freshwater wetlands area; (2) an environmental assessment should be performed on the site; (3) the proposal could cause increased flooding in the area; (4) the applicant has not satisfied the findings pursuant to ZR § 72-21; (5) the proposal creates potential zoning non-compliances; (6) the proposal must be reviewed by the Department of City Planning ("DCP"); and (7) there is insufficient parking for the project on the surrounding streets; and

WHEREAS, the subject site consists of 296,208 sq. ft. of lot area bounded by St. Andrews Road to the north and Richmond Road to the south, in an R1-2 zoning district within the Special Natural Area Zoning District; and

WHEREAS, the applicant notes that 59,520 sq. ft. of lot area is Freshwater Wetland, 157,135 sq. ft. of lot area is Freshwater Wetland Adjacent Area, and the remaining 79,533 sq. ft. of lot area is unregulated; and

WHEREAS, the applicant proposes to construct 13 single family homes on the site, with four of the homes fronting on Richmond Road and nine of the homes accessed by Tupelo Court, a newly created private street; and

WHEREAS, the applicant states that three of the homes are proposed to be constructed in the bed of a mapped street known as Mace Street, and two of the homes are proposed to be constructed in the bed of a mapped street known as Ascot Avenue; accordingly, the applicant seeks a waiver of Section 35 of the General City law for the construction of five homes in the bed of a mapped street; and

WHEREAS, the other eight homes in the proposed development do not require a waiver of Section 35 of the General City Law, and therefore are not included in the subject application; and

WHEREAS, by letter dated January 12, 2011, the Department of Transportation ("DOT") states that it has reviewed the project and has no objections; and

WHEREAS, DOT states that the applicant's property is not included in the agency's ten-year capital plan; and

WHEREAS, by letter dated September 26, 2011, the Department of Environmental Protection ("DEP") states that the Amended Drainage Plan No. D-3 (R-2)/D-4 (R-1), dated March 17, 2005, does not show any future sewers in the portions of mapped Mace Street and mapped Ascot Avenue at issue, but does show stabilized outlets at the intersection of Mace Street and mapped Call Street which will discharge storm flow into the referenced property; and

WHEREAS, DEP further states that, based on the June 28, 2011 map submitted by the applicant, which shows the DEP easement area which will be available to accept the storm flow discharge from the above-mentioned stabilized outlets, and based on the easement document submitted by the applicant for the portion of the property not to be developed on lot 36, it has no objections to the proposed application; and

WHEREAS, by letter dated December 7, 2010, the Fire Department states that it objects to the construction of any buildings within the bed of a mapped street (including the construction of the proposed homes in the bed of Ascot Avenue and Mace Street) because such streets should be opened in order to improve emergency response in the area; and

WHEREAS, in response, the applicant states that it made a good faith attempt to utilize and open the existing mapped but unbuilt streets on the site, however, the New York State Department of Environmental Conservation ("DEC") would not allow the existing streets on the site to be opened because they are within Freshwater Wetland and Freshwater Wetland Adjacent Area; and

WHEREAS, the applicant submitted a letter from DEC dated March 20, 2012 which states that it issued a freshwater wetlands permit for the construction of 13 single family homes on the site, which keeps portions of the beds of St. Andrews Road, Mace Street, and Ascot Avenue unbuilt in perpetuity to preserve and protect freshwater wetlands and their benefits, and the street beds will not be opened and developed on the property controlled by the terms of the cited DEC permit; and

WHEREAS, by letter dated March 6, 2012, the Fire Department states that it reviewed the proposed site plan and all conditions relative to building access roads are in compliance with the 2008 Fire Code; and

WHEREAS, accordingly, the Board acknowledges the stated policy of the Fire Department that all mapped streets be opened, but finds that the applicant has submitted sufficient evidence to warrant approval of the proposed construction based on the inability to open the mapped but unbuilt streets on the site due to the requirements of the DEC freshwater wetlands permit, in conjunction with the Fire Department's acknowledgment that the proposed Tupelo Court will fully comply with the 2008 Fire Code; and

WHEREAS, in response to the concerns raised by the Opposition regarding the construction within the Freshwater Wetlands, flooding, and the need to undergo an environmental assessment of the site, the applicant notes that more than half of the site is being preserved in its natural state, the proposed construction will only take place within the Freshwater Wetlands Adjacent Area and not within the Freshwater Wetlands, and that DEC issued a freshwater wetlands permit for the proposed construction, which incorporated an environmental review that followed SEQR regulations; and

WHEREAS, in response to the Opposition's claim that the proposal does not satisfy the findings of ZR § 72-21 and that it creates potential zoning non-compliances, the Board notes that the findings under ZR § 72-21 are not applicable to an application under Section 35 of the General City Law, and that all issues related to zoning on the site are subject to review and approval by the Department of Buildings; and

WHEREAS, as to the Opposition's contention that the proposal must be reviewed by DCP, the applicant submitted a letter from DCP stating that the proposed project will require Special Natural Area District authorizations and review by the City Planning Commission, but that the project requires a

Board determination before an application can be filed with DCP; and

WHEREAS, in response to the Opposition's concerns regarding a lack of parking, the applicant notes that off-street parking spaces will be provided for the proposed homes, the proposed Tupelo Court will be built out to a width of 38 feet such that parking can be provided on that street, and Richmond Road will be widened so that additional parking can be provided on that street; and

WHEREAS, while the Board recognizes the concerns expressed by the Opposition, such considerations are not part of an application to permit construction within the bed of a mapped street under Section 35 of the General City Law, and therefore are not subject to the Board's review; and

WHEREAS, the Board notes that the construction must comply with all requirements of the Zoning Resolution; 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 decisions of the Staten Island Borough Commissioner, dated May 10, 2010, acting on Department of Buildings Application Nos. 520048948, 520048957, 520048984, 520048975, and 520048966, is modified by the power vested in the Board by Section 35 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 20, 2012" – (3) sheets; 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 all necessary DEC and DEP approvals must be obtained prior to the issuance of DOB permits;

THAT the necessary DCP review and authorization must be obtained prior to the issuance of DOB permits;

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 shall review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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, April 24, 2012.

86-11-A
APPLICANT – Cozen O'Connor, for Perlbinder Holdings, LLC, owner.
SUBJECT – Application June 10, 2011 – Appeal of the Department of Buildings' revocation of an approval to permit a non-conforming sign. C1-9 zoning district.
PREMISES AFFECTED – 663-673 2nd Avenue, northwest corner of East 36th Street and 2nd Avenue, Block 917, Lot 21, 24-31, Borough of Manhattan.
COMMUNITY BOARD #6M
APPEARANCES –
For Applicant: Howard Hornstein.

ACTION OF THE BOARD – Laid over to June 19, 2012, at 10 A.M., for deferred decision.

154-11-A
APPLICANT – Eric Palatnik, for Atlantic Outdoor Advertising, Inc., owner.
SUBJECT – Application October 3, 2011 – Appeal seeking reversal of a Department of Buildings' determination that the non-illuminated sign located on top the building of the site is not a legal non-conforming advertising sign that may be maintained and altered. M1-9 zoning district.
PREMISES AFFECTED – 23-10 Queens Plaza South, between 23rd Street and 24th Street, Block 425, Lot 5, Borough of Queens.
COMMUNITY BOARD #2Q
APPEARANCES –
For Applicant: Eric Palatnik and Alaina Paciulli.
For Opposition: John Egnatios-Beene.

ACTION OF THE BOARD – Laid over to May 15, 2012, at 10 A.M., for continued hearing.

180-11-A & 181-11-A
APPLICANT – Eric Palatnik, P.C., for Eran Yousfan, owner.
SUBJECT – Application November 30, 2011 – An appeal seeking a common law vested right to continue development commenced under the prior R6B zoning district. R5 zoning district.
PREMISES AFFECTED – 34-57 & 34-59 107th Street, between 34th and 37th Avenues, Block 1749, Lot 60 (Tent. Lot #s 60 & 61), Borough of Queens.
COMMUNITY BOARD #3Q
APPEARANCES –
For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to June 5, 2012, at 10 A.M., for continued hearing.

MINUTES

REGULAR MEETING
TUESDAY AFTERNOON, APRIL 24, 2012
1:30 P.M.

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

ZONING CALENDAR

120-11-BZ
CEQR #12-BSA-013Q
APPLICANT – Goldman Harris LLC. for Borden LIC Properties, LLC, owner.
SUBJECT – Application August 17, 2011 – Special Permit (§73-44) to reduce the parking requirement for office use and catering use (parking requirement category B1) in a new commercial building. M1-3 zoning district.
PREMISES AFFECTED – 52-11 29th Street, corner of 29th Street and Review Avenue. Block 295, Lot 1. Borough of Queens.
COMMUNITY BOARD #2Q
APPEARANCES –
For Applicant: Vivien R. Krieger.
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 August 15, 2011, acting on Department of Buildings Application No. 420301015, reads in pertinent part:

> ZR 44-21: The proposed number of accessory parking spaces for Use Group 6B offices (PRC B1) and Use Group 9A Catering Establishment (PRC-B1) does not comply with 1 space per 300 square feet requirement. This requires a reduction in parking spaces from BSA as per ZR 73-44; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within an M1-3 zoning district, a reduction in the required number of accessory parking spaces for a mixed-use commercial/manufacturing building from 381 to 195, contrary to ZR § 44-21; and

WHEREAS, a public hearing was held on this application on February 28, 2012, after due notice by publication in The City Record, with continued hearings on January 10, 2012, February 28, 2012 and March 27, 2012 and then to decision on April 24, 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 2, Queens, recommends approval of this application; and

WHEREAS, the subject site is located on a corner through lot bounded by 29th Street to the north, Review Avenue to the west, and 30th Street to the south, in an M1-3 zoning district within the Long Island City Industrial Business Zone; and

WHEREAS, the site has a width of 125 feet, a depth of 230 feet, and a total lot area of 28,750 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a 16-story mixed-use commercial/ manufacturing building, with a total floor area of 143,734 sq. ft. (5.0 FAR), and a 195-space attended accessory parking garage; and

WHEREAS, specifically, the applicant states that the proposed building will be occupied by the following uses: (1) 139 accessory attended parking spaces at the cellar level; (2) contractor storage and staging (Use Group 17A) and 11 accessory attended parking spaces at the first floor; (3) 45 accessory attended parking spaces at the second floor; (4) office space (Use Group 6B) at the third through 15th floors; and (5) catering space (Use Group 9A) at the 16th floor; and

WHEREAS, the applicant initially proposed a building with a 150-space accessory garage, based on the exclusion of certain floor area in the building from the parking calculations; and

WHEREAS, at the direction of the Board, the applicant revised its parking calculations to include all eligible floor area within the building, resulting in the revised proposal which provides an accessory garage with 195 attended spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject M1-3 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for the noted Use Group 6 office use and Use Group 9 catering use in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 44-21 the total number of required parking spaces for all uses at the site is 381; and

WHEREAS, the applicant represents that the proposed 195 parking spaces are sufficient to accommodate the parking demand generated by the use of the site; and

WHEREAS, the applicant notes that 16,937 sq. ft. of floor space in the building is occupied by contractor storage and staging space (Use Group 17A), which is not in parking category B1 and therefore the associated eight required spaces have been excluded from the calculations for the requested reduction in parking; and

WHEREAS, the applicant states that 112,026 sq. ft. of floor area at the site will be occupied either by professional offices (Use Group 6) or catering space (Use Group 9), which are eligible for the parking reduction under ZR § 73-44; at a rate of one required parking space per 300 sq. ft. of floor area, 373 parking spaces are required for these uses; and

WHEREAS, accordingly, the total number of parking spaces which are eligible under the special permit is 373; as noted, the special permit allows for a reduction from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area, which would reduce the required parking for these uses to 187 spaces; and

WHEREAS, as noted, an additional eight parking spaces are required for the portions of the building occupied by contractor storage and staging space (Use Group 17A), which are not eligible for the special permit; and

WHEREAS, thus, a total of 195 parking spaces are required for the uses on the site; and

WHEREAS, the applicant proposes to provide 195 accessory attended parking spaces on the subject site; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the Use Group 6 and Use Group 9 use in the B1 parking category are contemplated in good faith; and

WHEREAS, the applicant submitted a letter stating that the commercial space in the proposed building will be utilized solely as Use Group 6 office space and Use Group 9 catering space in parking category B1; and

WHEREAS, the applicant notes that the owner of the site, Navillus Contracting, is intended to be the tenant for all of the contractor space and approximately one-third of the office space in the building; and

WHEREAS, in addition, the applicant states that any Certificate of Occupancy for the building will state that no subsequent Certificate of Occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, the Board finds that the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, however, while ZR § 73-44 allows the Board to reduce the required accessory parking, the Board requested an analysis about the impact that such a reduction might have on the community in terms of the parking demand on the site; and

WHEREAS, in response, the applicant submitted a parking analysis based on transit and auto usage where 50 percent of employees utilized mass transit (and 50 percent utilized cars), which yielded an expected average parking demand of 1.5 spaces per 1,000 sq. ft., resulting in a peak parking demand of 167 spaces for the office and manufacturing space within the building; accordingly, the parking analysis concluded that the proposed 195 spaces is adequate to meet the parking demand at the site and provides a comfortable margin in the event that the actual demand exceeds the projected demand; and

WHEREAS, the parking analysis also indicated that the catering establishment would have a peak demand of 75 vehicles, and because the catering establishment would be more active in evening and weekend periods when there would be no parking demand from the office and manufacturing uses, the 195 spaces provided at the site are sufficient to accommodate this demand; and

WHEREAS, at hearing, the Board raised concerns regarding the potential for the catering facility to be used simultaneously with the office and manufacturing uses, thereby creating a shortage of on-site parking; and

WHEREAS, in response, the applicant states that, in order to avoid a shortage of on-site parking when the office and manufacturing portions of the building are fully occupied, the catering facility will not operate between the hours of 8:00 a.m. and 6:00 p.m. from Monday through Friday, except on state and federal holidays; and

WHEREAS, at hearing, the Board also inquired about whether stackers could be installed on the second floor, given its height of 25 feet, to provide additional parking; and

WHEREAS, in response, the applicant stated that it plans to install stackers in the future if the building reaches greater occupancy and the demand for parking increases, but currently there is not a demand for more parking than the proposed so the applicant seeks to avoid incurring additional costs until it is necessary to do so; the applicant notes that the second floor design can accommodate a significant number of additional spaces, if required; and

WHEREAS, based upon the above, the Board agrees that the accessory parking space needs can be accommodated even with the parking reduction; 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 §§ 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; 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. 12SBA013Q, dated August 11, 2011; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City

Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-44 and 73-03 to permit, within an M1-3 zoning district, a reduction in the required number of accessory parking spaces for a mixed-use commercial/manufacturing building from 381 to 195, contrary to ZR § 44-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received February 14, 2012" – fifteen (15) sheets, and on further condition:

THAT there shall be no change in the operation of the site without prior review and approval by the Board;

THAT a minimum of 195 parking spaces shall be provided in the subject building;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

THAT the catering facility will not operate Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m., except on state and federal holidays;

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

THAT the layout and design of the accessory parking lot shall be as reviewed and approved by the Department of Buildings;

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

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

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

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

Adopted by the Board of Standards and Appeals, April 24, 2012.

167-11-BZ
CEQR #12-BSA-036X

APPLICANT – Eric Palatnik, P.C., for White Castle System, Inc., owner.

SUBJECT – Application October 20, 2011 – Special Permit (§73-243) to allow for an eating and drinking establishment (UG 6) with an accessory drive-through facility. C1-2/R5 zoning district.

PREMISES AFFECTED – 1677 Bruckner Boulevard, Fiely Avenue through to Metcalf Avenue, Block 3721, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated September 23, 2011, acting on Department of Buildings Application No. 220135510, reads in pertinent part:

> "Proposed reconstruction of 3,190 sq. ft. restaurant with drive-thru, 3 curb cuts, 37 parking spaces and installation of associated signage (Menu Board) in a C1-2 in R5 zoning district requires a special permit from the BSA;" and

WHEREAS, this is an application under ZR §§ 73-243 and 73-03, to permit, on a site within a C1-2 (R5) zoning district, the reconstruction of an accessory drive-through facility in conjunction with an as-of-right eating and drinking establishment (Use Group 6), contrary to ZR § 32-15; and

WHEREAS, a public hearing was held on this application on February 28, 2012, with a continued hearing on March 27, 2012, and then to decision on April 24, 2012; and

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

WHEREAS, Community Board 9, Bronx, recommends approval of this application; and

WHEREAS, a community member provided testimony complaining that passersby use a portion of the site for inappropriate conduct which is incompatible with adjacent residential uses; and

WHEREAS, the subject site is located on a corner through lot bounded by Metcalf Avenue to the west, Bruckner Boulevard to the north, and Fteley Avenue to the east, within a C1-2 (R5) zoning district; and

WHEREAS, the subject site has a total lot area of 52,421 sq. ft. and is currently occupied by a White Castle restaurant with a floor area of 2,755 sq. ft. (.051 FAR) and 56 parking spaces; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 25, 1986 when, under BSA Cal. No. 278-86-BZ, the Board granted a special permit for the addition of a drive-through facility accessory to an eating and drinking establishment (Use Group 6), for a term of five years; and

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

WHEREAS, most recently, on December 4, 2001, the Board granted an extension of term, which expired on November 26, 2011; and

WHEREAS, the applicant now seeks to demolish the existing eating and drinking establishment with accessory drive-through on the site and to reconstruct a new eating and drinking establishment with accessory drive-through with a floor area of 3,190 sq. ft. (.058 FAR) and 37 parking spaces;

and

WHEREAS, under ZR § 73-243, the applicant must demonstrate that: (1) the drive-through facility provides reservoir space for not less than ten automobiles; (2) the drive-through facility will cause minimal interference with traffic flow in the immediate vicinity; (3) the eating and drinking establishment with accessory drive-through facility complies with accessory off-street parking regulations; (4) the character of the commercially-zoned street frontage within 500 feet of the subject premises reflects substantial orientation toward the motor vehicle; (5) the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity; and (6) there will be adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, the applicant submitted a site plan indicating that the drive-through facility provides reservoir space for a ten-car queue; and

WHEREAS, the applicant represents that the facility will cause minimal interference with traffic flow in the immediate vicinity of the subject site; and

WHEREAS, in support of this representation, the applicant submitted a vehicle circulation drawing reflecting that the site will provide a total of three curb cuts, with two curb cuts located on Fteley Avenue and a curb cut allowing for a right turn only onto Bruckner Boulevard to ensure that the drive-thru facility will cause minimal interference with traffic flow in the surrounding area; and

WHEREAS, the applicant represents that the facility fully complies with the accessory off-street parking regulations for the C1-2 (R5) zoning district; and

WHEREAS, specifically, the applicant states that a minimum of ten parking spaces are required pursuant to ZR § 32-21, and a total of 37 accessory off-street parking spaces will be provided at the site; and

WHEREAS, the applicant represents that the facility conforms to the character of the commercially zoned street frontage within 500 feet of the subject premises, which reflects substantial orientation toward the motor vehicle; and

WHEREAS, in support of this representation the applicant submitted a radius diagram reflecting that the site is located between the Bruckner Expressway and the Bronx River Parkway, a heavily trafficked intersection, and that there are approximately five gasoline stations within one mile of the site and at least two other eating and drinking establishments with drive-through facilities in the surrounding area (located at 1600 Bruckner Boulevard and 1851 Bruckner Boulevard); and

WHEREAS, the applicant represents that the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity of the subject premises; and

WHEREAS, the applicant represents that the fact that the proposed drive-through facility has operated at this site without complaints since 1986, when the Board granted the original special permit, is evidence that it does not have an adverse impact on residences in the surrounding area; and

WHEREAS, the applicant states that all of the curb cuts on the site will be located on Bruckner Boulevard and Fieley Avenue, thereby avoiding the creation of any undue adverse impact on the residences on Metcalf Avenue; and

WHEREAS, the applicant further states that the menu board speaker will face away from the neighboring residential uses and will be located 190'-9" from the nearest residential area, which is more than 90'-0" further from the residential area than the existing speaker, while the proposed drive-through window will be located 159'-0" from the nearest residential area, which is approximately 50'-0" further from the residential area than the existing drive-through; and

WHEREAS, the applicant also submitted a lighting plan reflecting that all lighting on the site will be directed downward and away from the neighboring residential properties; and

WHEREAS, the applicant represents that adequate buffering between the drive-through facility and adjacent residential uses is provided; and

WHEREAS, specifically, the applicant submitted revised plans reflecting that it will maintain the opaque fence along the rear of the site with a height of six feet, replace the existing chain-link fence along Metcalf Avenue with a decorative fence with a height of four feet which will be set back five feet from the street line, and provide a landscape buffer along the property line, in accordance with ZR § 37-921; and

WHEREAS, at hearing, the Board questioned whether the site is in compliance with C1 district signage regulation; and

WHEREAS, in response, the applicant states that the signage on the site has been reduced to a maximum height of 25 feet, and submitted a signage analysis reflecting that the site is now in compliance with C1 district regulations; and

WHEREAS, the applicant seeks to maintain the existing 24 hours per day, seven days per week operation of the site; and

WHEREAS, in response to the complaint regarding inappropriate conduct at the site, the applicant represents that the area at issue is fenced off and the issue is not caused by customers or employees of the subject site; 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-243 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 12BSA036X dated October 18, 2011; and

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

Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, 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 §§ 73-243 and 73-03 to permit, on a site within a C1-2 (R5) zoning district, the operation of an accessory drive-through facility in conjunction with an as-of-right eating and drinking establishment (Use Group 6), contrary to ZR § 32-15; *on condition* "that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked 'Received April 17, 2012- eight (8) sheets; and *on further condition*:

THAT the term of this grant will expire on April 24, 2017;

THAT the premises will be maintained free of debris and graffiti;

THAT parking and queuing space for the drive-through will be provided as indicated on the BSA-approved plans;

THAT all landscaping and/or buffering will be maintained as indicated on the BSA-approved plans;

THAT exterior lighting will be directed away from the nearby residential uses;

THAT all signage will conform with the underlying C1 zoning district regulations;

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

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

THAT 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 plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, April 24, 2012.

35-11-BZ
APPLICANT – The Law Office of Fredrick A. Becker, for Congregation Othel, owners.
SUBJECT – Application March 31, 2011 – Variance (§72-21) to allow for the enlargement of an existing synagogue (*Congregation Ohel*), contrary to floor area, lot coverage (§24-11), front yard (§24-34), side yard (§24-35), rear yard (§24-36) and parking (§25-31). R2A zoning district.
PREMISES AFFECTED – 226-10 Francis Lewis Boulevard, 1,105' west of Francis Lewis Boulevard, Block 12825, Lot 149, Borough of Queens.
COMMUNITY BOARD #13Q
APPEARANCES –
For Applicant: Lyra J. Altman.
For Opposition: Assembly Member Barbara M. Clark, Joseph Goldbloom of Council Member Leroy Comrie, Kelli M. Singleton, Steven Taylor, and Michael Dunner.

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

102-11-BZ
APPLICANT – H. Irving Sigman, for S & I Property Management, LLC, owner.
SUBJECT – Application July 20, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*New York Spa*). M1-1 (CP) zoning district.
PREMISES AFFECTED – 131-23 31st Avenue, northwest corner of the intersection of 31st Avenue & Whitestone Expressway (West Service Road). Block 4361, Lot 27. Borough of Queens.
COMMUNITY BOARD #7Q
APPEARANCES –
For Applicant: Richard Lobel and Barney Sigman.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

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

112-11-BZ
APPLICANT – Eric Palatnik, P.C., for Louis N. Petrosino, owner.
SUBJECT – Application August 9, 2011 – Variance (§72-21) to legalize the extension of the use and enlargement of the zoning lot of a previously approved scrap metal yard (UG 18), contrary to §32-10. C8-1 zoning district.
PREMISES AFFECTED – 2994/3018 Cropsey Avenue, southwest corner of Bay 54th Street. Block 6947, Lot 260. Borough of Brooklyn.
COMMUNITY BOARD #13BK
APPEARANCES –
For Applicant: Eric Palatnik.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collin,

Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to June 6, 2012, at 1:30 P.M., for decision, hearing closed.

174-11-BZ
APPLICANT – Daniel H. Braff, Esq., for The Church of Jesus Christ of Latter-day Saints, owner.
SUBJECT – Application November 9, 2011 – Variance (§72-21) to permit the development of a two-story chapel (*The Church of Jesus Christ of Latter-day Saints*), contrary to floor area ratio (§24-111) and permitted obstructions in the side yards and rear yard (§24-33). R2A zoning district.
PREMISES AFFECTED – 145-15 33rd Avenue, north side of 33rd Avenue approximately 400' east of Parsons Boulevard, Block 4789, Lot 81, Borough of Queens.
COMMUNITY BOARD #7Q
APPEARANCES –
For Applicant: Daniel H. Braff, Fernando Fernendez, Richard Hedberg, Michael Bouralet, Charlene Grant, Robert DeRosa, Javier A. Castro, Saaf Hoppie, Spence Shin and Jaron Harding.
For Opposition: Senator Tony Avella, Don Capalbi for Assembly Member Grace Meng, Tyler D. Cassell of CB2, Peter J. Brancazio, Millicent O'Meally, Paul DiBenedetto, Mel Siegel, Margaret Dandola, Sandi Vivieni, Janet McCrecsh, Marilyn Sadallah, Paul Graziano, John Stiller, David Goldstein and Henry Euler.

ACTION OF THE BOARD – Laid over to June 5, 2012, at 1:30 P.M., for continued hearing.

176-11-BZ
APPLICANT – Eric Palatnik, P.C., for Alla Lubimor, owner.
SUBJECT – Application November 14, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to lot coverage and floor area (§23-141(b)); side yards (§23-461(a)) and less than the required rear yard (§23-47). R3-1 zoning district.
PREMISES AFFECTED – 150 Norfolk Street, between Oriental and Shore Boulevard, Block 8756, Lot 19, Borough of Brooklyn.
COMMUNITY BOARD #15BK
APPEARANCES –
For Applicant: Eric Palatnik.
For Opposition: Ed Jaworski.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

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

3-12-BZ
APPLICANT – Sheldon Lobel, P.C., for Mr. Michael Weissman, owner.
SUBJECT – Application January 4, 2012 – Special Permit (§73-622) for the enlargement an existing single family home, contrary to floor area (§23-141(b)) and side yard (§23-461(b)) requirements. R4 zoning district.
PREMISES AFFECTED – 1913 East 28th Street, east side of East 28th Street, 100' south of Avenue S. Block 7307, Lot 88. Borough of Brooklyn.
COMMUNITY BOARD #15BK
APPEARANCES –
For Applicant: Richard Lobel.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

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

7-12-BZ
APPLICANT – Eric Palatnik, P.C., for 419 West 55th Street Corp., owner; Katsam Holding, LLC, lessee.
SUBJECT – Application January 17, 2012 – Special Permit (§73-36) to allow a physical culture establishment (*Revolutions 55*). C6-2/R8 zoning district.
PREMISES AFFECTED – 419 West 55th Street, between 9th and 10th Avenues, Block 1065, Lot 21, Borough of Manhattan.
COMMUNITY BOARD #4BK
APPEARANCES –
For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to June 5, 2012, at 1:30 P.M., for continued hearing.

26-12-BZ
APPLICANT –Sheldon Lobel, P.C., for Elmnic, 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 – Laid over to May 15, 2012, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

***CORRECTION**

This resolution adopted on February 28, 2012, under Calendar No. 47-11-BZ and printed in Volume 97, Bulletin Nos. 9-10, is hereby corrected to read as follows:

47-11-BZ
CEQR #11-BSA-082Q
APPLICANT – Law Office of Fredrick A. Becker, for USA Outreach Corp., by Shaya Cohen, owner.
SUBJECT – Application April 13, 2011 – Variance (§72-21) to allow a three-story yeshiva (*Yeshiva Zichron Aryeh*) with dormitories, contrary to use (§22-13), floor area (§§23-141 and 24-111), side setback (§24-551) and parking regulations (§25-31). R2 zoning district.
PREMISES AFFECTED – 1213 Bay 25th Street, west side of Bay 25th Street, between Bayswater Avenue and Healy Avenue. Block 15720, Lot 67, Borough of Queens.
COMMUNITY BOARD #14Q
APPEARANCES –
For Applicant: Lyra J. Altman.
ACTION OF THE BOARD – 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 April 8, 2011, acting on Department of Buildings Application No. 420166938, reads in pertinent part:

Proposed use is contrary to ZR 22-13.

Proposed floor area is contrary to ZR 23-141 and 24-111.

Proposed required side setback for tall buildings in low bulk districts is contrary to ZR 24-551; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R2 zoning district, the construction of a two- and three-story yeshiva and dormitory building (Use Group 3) which does not conform to the underlying use regulations and does not comply with zoning requirements related to floor area and side setback, contrary to ZR §§ 22-13, 23-141, 24-111, and 24-551; and

WHEREAS, a public hearing was held on this application on September 20, 2011, after due notice by publication in the *City Record*, with continued hearings on October 25, 2011, December 6, 2011, and January 24, 2012, and then to decision on February 28, 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 14, Queens, recommended disapproval of an earlier iteration of the application; and

WHEREAS, Queens Borough President Helen Marshall recommended disapproval of an earlier iteration of the application, citing concerns that the building would be out of scale with the character of the surrounding neighborhood and the increased pedestrian and vehicular traffic that would be generated by the community facility; and

WHEREAS, City Councilmember James Sanders, Jr. provided testimony expressing support for the yeshiva but opposition to the proposed dormitory use based on concerns with the number of beds in the facility, parking, and the impact on the rising water table in the surrounding area; and

WHEREAS, representatives of the Bayswater Civic Association and certain members of the community provided testimony in opposition to this application (hereinafter, the "Opposition"), raising the following primary concerns: (1) the incompatibility of the proposed facility with the surrounding neighborhood; (2) the potential for increased traffic; (3) insufficient parking in the area; (4) the potential for excessive noise generated by the students residing in the dormitory rooms; (5) the proposal otherwise does not satisfy the findings of ZR § 72-21; (6) the proposed use does not qualify for educational deference; and (7) there are problems with the Board's process; and

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

WHEREAS, the application is brought on behalf of Yeshiva Zichron Aryeh (the "Yeshiva"), a not for profit educational institution; and

WHEREAS the site is located on the west side of Bay 25th Street between Bayswater Avenue and Healy Avenue, within an R2 zoning district; and

WHEREAS, the site consists of an irregularly-shaped lot with approximately 95 feet of frontage on Bay 25th Street and a total lot area of 35,819 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the proposed dormitory use is not permitted in the subject R2 zoning district and the proposed bulk exceeds the complying building envelope for a conforming use, thus the applicant seeks a variance for the proposed building; and

WHEREAS, the applicant proposes to construct a three-story yeshiva and dormitory building with the following complying parameters: lot coverage of 35.5 percent (a maximum lot coverage of 55 percent is permitted); a roof height of 39'-6" (as governed by sky exposure plane regulations); a front yard with a depth of 63'-8 11/16" (a front yard with a minimum depth of 15'-0" is required); two side yards with minimum widths of 13'-4" each (two side yards with minimum widths of 8'-0" each are required); a rear yard with a depth of 30'-0" (a rear yard with a minimum depth of 30'-0" is required); and 28 accessory off-street parking spaces (a minimum of 27 spaces are required); and

WHEREAS, however, the proposed building results in the following non-compliances: a floor area of 35,476 sq. ft. (the maximum permitted floor area is 17,909.6 sq. ft.); an FAR of 0.99 (the maximum permitted FAR is 0.50); a side setback of 15'-0" above a height of 35'-0" along the northern side of the building (a minimum side setback of 24'-4 1/16" is required); and a side setback of 15'-0" above a height of 35'-0" along the southern side of the building (a minimum side

setback of 25'-0 15/16" is required); and

WHEREAS, the applicant originally proposed a building with a floor area of 39,286 sq. ft. (1.1 FAR), side setbacks of 14'-6" each, a roof height of 44'-6", and 13 accessory off-street parking spaces, which would have necessitated an additional waiver for less than the minimum number of required parking spaces; and

WHEREAS, however, in response to concerns raised by the Board and the Opposition, the applicant revised the proposal several times during the course of the hearing process, ultimately reducing the degree of non-compliance as to floor area and side setback, reducing the roof height of the building to 39'-6", and providing a complying number of parking spaces; and

WHEREAS, the applicant states that the proposed building provides the following uses: (1) a gymnasium, dining room, pool, dairy kitchen, meat kitchen, and mechanical rooms at the sub-cellar level; (2) a synagogue, exercise room, music room, mechanical room, and storage at the cellar level; (3) a science laboratory, computer room, classrooms, and offices at the first floor; (4) a Bais Medrash, library, classrooms, and offices at the second floor; and (5) a student lounge, laundry room, and 15 dormitory rooms at the third floor; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Yeshiva: (1) accommodating the current enrollment while allowing for future growth; and (2) providing an on-site dormitory to allow for an integrated living and learning environment; and

WHEREAS, the applicant states that the Yeshiva provides education from high school (grades nine through 12) through graduate school and currently operates out of several separate buildings in the surrounding neighborhood, which combine to accommodate its enrollment of 135 students with 49 students in dormitory rooms, and approximately 30 staff members; and

WHEREAS, the applicant represents that there are also many students on a waiting list for the Yeshiva; and

WHEREAS, the applicant states that the Yeshiva's existing facilities have been unable to keep up with the needs of the student body and they have been renting additional space in a number of buildings in the surrounding neighborhood; and

WHEREAS, the applicant represents that for the past two years the existing dormitory buildings the Yeshiva rents have been at capacity, and the Yeshiva is in the process of finding additional space for dormitories for the current school year; and

WHEREAS, in addition to the difficulties posed by operating the Yeshiva out of multiple buildings scattered throughout the neighborhood, the applicant states that the existing facilities are deficient for the following reasons: the existing dining area is not large enough to accommodate the entire student body; the kitchen does not have adequate space to prepare the necessary amount of food; the main college study hall building is a rented facility that is shared with a synagogue, such that they do not always have access to the space; there is a lack of office space; and two classes currently have to meet in the hallway due to space constraints; and

WHEREAS, the applicant represents that the Yeshiva anticipates increasing its enrollment within the next two years to 220 students, with 45 associated staff members; and

WHEREAS, the applicant states that in order to accommodate the student population and provide a program that will meet their needs, the Yeshiva requires six high school classrooms, four undergraduate/graduate classrooms, a library, science laboratory, a computer room, prayer space, physical education space, and dormitory space; and

WHEREAS, during the hearing process, the Board asked the applicant to explain the need for the proposed dormitory rooms, which the applicant claims are a component of the programmatic needs; and

WHEREAS, in response, the applicant states that the dormitory rooms are necessary to meet the programmatic needs of the Yeshiva due to the rigorous and intensive course of study followed by the students; and

WHEREAS, specifically, the applicant states that the high school portion of the Yeshiva provides a dual curriculum in which each student must complete a full course load of secular studies and a full course load of religious studies, which extends into the evening hours and necessitates sleeping accommodations be provided for certain students; and

WHEREAS, the applicant further states that undergraduate students begin their day with morning prayers at 7:45 a.m., followed by a day filled with classes and studying until their final evening prayer begins at 10:00 p.m., with breaks only provided for meals; and

WHEREAS, the applicant states that between the end of evening prayers and the beginning of morning prayers is approximately nine hours, and in this limited time the students must sleep, complete any remaining studies, and prepare for their day; and

WHEREAS, the applicant represents that because of this schedule students require immediate access to their living areas in order to make effective use of the limited time they have outside of classes and study sessions; and

WHEREAS, the applicant further represents that locating the Yeshiva and the dormitories in the same building is integral to the students learning due to the unbroken continuance of focus that occurs when the students do not leave the facility, and this immersion allows the students to more fully devote themselves to both their religious and secular studies without distractions; and

WHEREAS, the applicant also submitted a list of other yeshivas that provide dormitory beds for their students in comparable facilities; and

WHEREAS, the applicant represents that a complying building at the site would not provide an adequate amount of space for the current number of students and faculty or for the anticipated growth in enrollment; and

WHEREAS, specifically, the applicant submitted plans for a complying building which would result in the elimination of two high school classrooms, one graduate classroom, the science laboratory, the Bais Medrash, and all 15 dormitory rooms; and

WHEREAS, the applicant also submitted plans for a lesser variance scenario which would request the use waiver but comply with all bulk requirements; and

WHEREAS, the applicant states that the lesser variance

scenario would result in the elimination of the Bais Medrash, all graduate classrooms, a science room and eight dormitory rooms, and would not provide a sufficient amount of space to meet the needs of the Yeshiva; and

WHEREAS, the applicant states that the requested floor area and side setback waivers are necessary to accommodate the space needs associated with the projected student body, and the use waiver is necessary to provide dormitory space within the proposed building; and

WHEREAS, as to the floor area, the applicant states that without the floor area waiver approximately half of the proposed floor area would be lost, and the resultant building would be inadequate to provide sufficient classroom or program space to meet the needs of the Yeshiva; and

WHEREAS, as to the side setbacks, the applicant states that the setback waivers are required to achieve floor plates that accommodate the necessary number of beds in the dormitory, as without such waivers the Yeshiva could not provide the 58 beds necessary to accommodate the projected enrollment; and

WHEREAS, as to the use waiver, the applicant notes that it could have applied for a special permit for the subject site pursuant to ZR § 73-122 which would authorize the proposed dormitory use in the subject R2 zoning district, but a variance would still be required to construct the proposed building due to the requested bulk waivers; and

WHEREAS, the applicant submitted evidence in support of its claim that it could satisfy the findings required for the special permit under ZR § 73-122, provided the Board allowed the dormitory FAR to be calculated independently of the FAR for the remainder of the building; and

WHEREAS, the applicant states that only the proposed variance building can accommodate the Yeshiva's projected enrollment and satisfy the programmatic needs and space requirements of its students; and

WHEREAS, based upon the above, the Board agrees that the cited programmatic needs are legitimate and have been documented with substantial evidence; and

WHEREAS, the Board acknowledges that the Yeshiva, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the limitations of the existing zoning, when considered in conjunction with the programmatic needs of the Yeshiva, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Yeshiva is a not-for-profit organization and the proposal is in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant notes that the use of the site as a yeshiva is permitted as-of-right in the subject R2 zoning district, and dormitory use is permitted in the subject R2 zoning district by special permit under ZR § 73-122, which the applicant states is an acknowledgment that the use itself can be compatible with surrounding uses in the R2 zoning district; and

WHEREAS, the applicant submitted a 400-ft. radius diagram which reflects that the surrounding area is characterized predominantly by single-family homes ranging in height from one-and-one-half to three stories; and

WHEREAS, accordingly, the applicant states that the height of the proposed two- and three-story building complies with the underlying district regulations and will fit within the character of the surrounding neighborhood; and

WHEREAS, the applicant further states that the proposed building will comply with all yard requirements for a community facility building in the subject R2 district, and the building will be significantly set back from the street, providing a front yard with a depth of 63'-8 11/16", more than four times the depth required in the underlying zoning district; and

WHEREAS, the applicant notes that the building is also designed to be lower in the front, with a front setback of more than 30 feet above the second floor, to make the building more consistent with the character of the surrounding neighborhood; and

WHEREAS, the applicant further notes that the building will also be screened from surrounding residences by providing a significant amount of landscaping around the perimeter of the site and in the front yard to create a break in the façade; and

WHEREAS, as noted above, the Opposition made a number of arguments and observations regarding the instant application; and

WHEREAS, as to the Opposition's argument that the scale of the building is out of context with the surrounding neighborhood, the applicant notes that the subject site is larger than the surrounding developed properties and can support a building that is larger than other buildings in the immediate vicinity; and

WHEREAS, the applicant further states that the proposed building complies with all underlying bulk regulations aside from FAR and side setbacks, and that the complying height and yards, in conjunction with the buffering provided by the proposed landscaping result in a building that fits within the context of the surrounding neighborhood; and

WHEREAS, further, the Board finds that the applicant has credibly established that the proposed dormitory use and the requested bulk waivers are necessary to provide a facility that can satisfy the Yeshiva's programmatic needs; and

WHEREAS, as to the Opposition's concerns about traffic impact, the applicant notes that the proposed building will serve an existing yeshiva that already operates in the surrounding area, and states that the increased enrollment at the proposed building will not result in a significant impact on

transit or pedestrian traffic; and

WHEREAS, the applicant provided a survey analyzing the anticipated difference in vehicle trips between the current operation of the Yeshiva and the operation under the proposed building, which indicates that of the 265 students and staff at the proposed facility, 58 students will live in the dormitory rooms and will not travel to or from the site, and it is anticipated that of the remaining 207 students and staff, 77 people will walk, 75 people will drive, 40 people will arrive by school van, 14 people will be dropped off/picked up, and one person will arrive by public transportation; and

WHEREAS, the applicant states that the anticipated transportation to and from the site does not exceed the thresholds listed in the CEQR manual, and therefore the proposed use will not result in a significant impact on traffic; and

WHEREAS, as to the Opposition's concerns regarding parking, the Board notes that the applicant revised its plans to provide 28 parking spaces, which complies with the requirements of the Zoning Resolution; and

WHEREAS, as to the Opposition's concern that the students residing at the proposed facility will create excessive noise in the predominantly residential area, the applicant states that noise attenuation will be achieved by insulating the exterior walls of the building and installing double pane low E windows equipped with shades; and

WHEREAS, the applicant states that the proposed building will also be screened from adjacent residences by providing landscaping around the perimeter and in front of the building, and minimizing exterior lighting by utilizing directional fixtures focused on the site and short post lighting in lieu of large pylon lighting when feasible; and

WHEREAS, the Opposition also made other arguments as to the Board's findings, process, and educational deference, which the Board has considered and does not find persuasive; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no development in conformance with zoning would meet the programmatic needs of the Yeshiva at the site; and

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

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to meet the programmatic needs of the Yeshiva and to construct a building that is compatible with the character of the neighborhood; and

WHEREAS, as noted above, the applicant originally proposed to construct a building with a floor area of 39,286 sq. ft. (1.1 FAR), a roof height of 44'-6", and 13 accessory off-street parking spaces; and

WHEREAS, in response to concerns raised by the Board and the Opposition during the course of the hearing process, the applicant reduced the size of the building in terms of FAR, height, and side setbacks, in order to create a more compatible building envelope, and revised the parking layout to provide a complying number of accessory parking spaces; and

WHEREAS, therefore, the Board agrees that the requested relief is the minimum necessary to allow the Yeshiva to fulfill its programmatic needs; and

WHEREAS, in sum, 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 6NYCRR; 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. 11BSA082Q, dated January 6, 2012; and

WHEREAS, the EAS documents show 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; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R2 zoning district, the construction of a three-story yeshiva and dormitory building which does not conform to the underlying use regulations and does not comply with zoning requirements related to floor area and side setback, contrary to ZR §§ 22-13, 23-141, 25-111, and 25-551; *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 January 25, 2012" – (12) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a floor area of 35,476 sq. ft. (0.99 FAR); a side setback of 15'-0" above a height of 35'-0" along the northern side of the building; a side setback of 15'-0" above a

height of 35'-0" along the southern side of the building; a roof height of 39'-6"; lot coverage of 35.5 percent; a front yard with a depth of 63'-8 11/16"; two side yards with minimum widths of 13'-4" each; a rear yard with a depth of 30'-0"; and 28 accessory off-street parking spaces, as reflected on the BSA-approved plans;

THAT any change in the use, occupancy, or operator of the school requires review and approval by the Board;

THAT no commercial catering is permitted within the building or on-site;

THAT the occupancy of the dormitory will be limited to 58 beds;

THAT landscaping will be provided and maintained as indicated on the BSA-approved plans;

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

THAT the exterior walls of the building will be insulated and double pane low E windows will be installed;

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

THAT substantial construction be completed in accordance with ZR §72-23;

THAT the approved plans 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, February 28, 2012.

***The resolution has been revised to correct the Resolved which read:** …*" ZR §§ 22-13, 23-141, 25-111, and 24-551,"*… **now reads:** …*" ZR §§ 22-13, 23-141, 25-111, and 25-551;"*. **Corrected in Bulletin Nos. 16-18, Vol. 97, dated May 3, 2012.**

***CORRECTION**

This resolution adopted on March 27, 2012, under Calendar No. 4-12-BZ and printed in Volume 97, Bulletin No. 14, is hereby corrected to read as follows:

4-12-BZ
CEQR #12-BSA-064M
APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 56th and Park (NY) Owner, LLC.
SUBJECT – Application January 11, 2012 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*The Wright Fit*). C5-3/C5-2.5 (MID) zoning district.
PREMISES AFFECTED – 432-440 Park Avenue, northwest corner of Park Avenue and East 56th Street, Block 1292, Lot 33, 43, 45, 46, Borough of Manhattan.
COMMUNITY BOARD #5M
APPEARANCES –
For Applicant: Gary R. Tarnoff.
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 Manhattan Borough Commissioner, dated December 21, 2011, acting on Department of Buildings Application No. 120628776, reads in pertinent part:

> "Proposed physical culture establishment is not permitted as of right in a C5-2.5 & C5-3 district as per ZR 32-10;" and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within the Special Midtown District (MID), partially within a C5-2.5 and partially within a C5-3 zoning district, the operation of a physical culture establishment (PCE) on portions of the first and sixth floors and the entire seventh and ninth floors of a proposed 82-story mixed-use residential/commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 6, 2012, after due notice by publication in *The City Record*, and then to decision on March 27, 2012; and

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

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

WHEREAS, the subject site is an irregularly shaped lot located on the northwest corner of Park Avenue and East 56th Street, with a mid-block portion that fronts on both East 56th Street and East 57th Street, in the Special Midtown District (MID), partially within a C5-2.5 and partially within

a C5-3 zoning district; and

WHEREAS, the applicant proposes to construct an 82-story mixed-use residential/ commercial building at the site; and

WHEREAS, the PCE will occupy a total of approximately 20,660 sq. ft. of floor area on portions of the first and sixth floors, and the entire seventh and ninth floors; and

WHEREAS, the PCE will be operated by the Wright Fit; and

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

WHEREAS, the hours of operation for the proposed PCE will be 6:00 a.m. to 10:00 p.m., daily; and

WHEREAS, the applicant represents that the proposed PCE meets the requirements in ZR § 81-13 for a special permit use in the Special Midtown District (MID); and

WHEREAS, specifically, the applicant states that the proposed PCE use is consistent with other retail uses within the Special Midtown District (MID) and will provide a desirable amenity to the neighborhood; and

WHEREAS, as a result, the applicant states that the subject PCE use will strengthen the business core of Midtown Manhattan by improving working and living environments and will promote a desirable use of land and building development in accordance with the District Plan for Midtown wherein the value of land is conserved and tax revenue is protected; and

WHEREAS, accordingly, the Board finds that the proposed special permit use is consistent with the purposes and provisions of ZR § 81-00; and

WHEREAS, at hearing, the Board directed the applicant to address the sound attenuation measures that will be provided in the proposed PCE; and

WHEREAS, in response, the applicant states that residential occupancy of the proposed building will begin at the 14th floor, and therefore there will be significant separation between the proposed PCE and any residential uses in the building; and

WHEREAS, the applicant also submitted revised plans reflecting that the seventh floor will provide a six-inch floating concrete floor above the ten-inch structural concrete slab, in order to provide sound attenuation for the PCE equipment located on that floor; and

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 12BSA064M, dated January 11, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located within the Special Midtown District (MID), partially within a C5-2.5 and partially within a C5-3 zoning district, the operation of a physical culture establishment on portions of the first and sixth floors and the entire sixth and ninth floors of a proposed 82-story mixed-use residential/commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received March 13, 2012"- (7) sheets, and *on further condition*:

THAT the term of this grant will expire on March 27, 2022;

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

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

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

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

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

THAT sound attenuation measures will be provided as shown on the BSA-approved plans;

THAT the proposed building will be reviewed by

DOB for compliance with all bulk regulations of the Zoning Resolution;

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;

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

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

Adopted by the Board of Standards and Appeals, March 27, 2012.

The resolution has been revised to correct the part which read…portions of the first and fourth floors and the entire sixth and seventh floors***... now reads…***portions of the first and sixth floors and the entire seventh and ninth floors***…. Corrected in Bulletin Nos. 16-18, Vol. 97, dated May 3, 2012.**