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AND APPEALS

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DOCKET

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138-10-A

174-20 North Boundary Road, Rockaway Boulevard to the north, Farmers Boulevard to the west, Guy R. Brewer Boulevard to the east., Block 14260, Lot(s) 110, Borough of **Queens, Community Board: 13**. Construction within the mapped street, contrary to General City Law 35. M1-1 district.

139-10-A

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140-10-BZ

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141-10-A

160 Edinboro Road, South of Meisner Avenue, 223.77' east of intersection of Lighthouse Avenue and Edinboro Road., Block 2267, Lot(s) 55 (tent), Borough of **Staten Island, Community Board: 2**. Construction not fronting a mapped street, contrary to General City Law 36. R1-2 (NA-1) district.

142-10-BZ

170 Edinboro Road, South of Meisner Avenue, 223.77' east of intersection of Lighthouse Avenue and Edinboro Road., Block 2267, Lot(s) 50, Borough of **Staten Island, Community Board: 2**. Variance to allow a single family home, contrary to bulk regulations. R1-2 (NA-1) district.

143-10-A

170 Edinboro Road, South of Meisner Avenue, 223.77' east of intersection of Lighthouse Avenue and Edinboro Road., Block 2267, Lot(s) 50, Borough of **Staten Island, Community Board: 2**. Construction not fronting a mapped street, contrary to General City Law 36. R1-2 (NA-1) district.

144-10-BZ

181 Edinboro Road, South of Meisner Avenue, 223.77' east of intersection of Lighthouse Avenue and Edinboro Road., Block 2268, Lot(s) 197, Borough of **Staten Island, Community Board: 2**. Variance to allow a single family home, contrary to bulk regulations. R1-2 (NA-1) district.

145-10-A

181 Edinboro Road, South of Meisner Avenue, 223.77' east of intersection of Lighthouse Avenue and Edinboro Road., Block 2268, Lot(s) 197, Borough of **Staten Island, Community Board: 2**. Construction not fronting a mapped street, contrary to General City Law Section 36. R1-2 (NA-1) district.

146-10-BZ

191 Edinboro Road, South of Meisner Avenue, 223.77' east of intersection of Lighthouse Avenue and Edinboro Road., Block 2268, Lot(s) 168, Borough of **Staten Island, Community Board: 2**. Variance to allow a single family home, contrary to bulk regulations. R1-2 (NA-1) district.

147-10-A

191 Edinboro Road, South of Meisner Avenue, 223.77' east of intersection of Lighthouse Avenue and Edinboro Road., Block 2268, Lot(s) 168, Borough of **Staten Island, Community Board: 2**. Construction not fronting a mapped street, contrary to General City Law Section 36. R1-2 (NA-1) district.

148-10-BZ

1559 East 29th Street, Between Avenue P and Kings Highway., Block 7690, Lot(s) 20, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) for the enlargement of a single family home. R3-2 district.

149-10-BZ

1415 East 29th Street, Between Avenue N and Kings Highway., Block 7683, Lot(s) 39, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) for the enlargement of a single family home. R-2 district.

150-10-BZ

1124 East 26th Street, West side of East 26th Street, between Avenue K and Avenue L., Block 7625, Lot(s) 55, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) for the enlargement of a single family home. R2 district.

DOCKET

151-10-BZ

224 West 35th Street, South side of West 35th Street, 225 feet west of Seventh Avenue., Block 784, Lot(s) 60, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to legalize the operation of a physical culture establishment. M1-6 district.

152-10-BZ

158 85th Street, 85th Street frontage, Block 6032, Lot(s) 31, Borough of **Brooklyn, Community Board: 10**. Special Permit (73-622) for the enlargement of a single family home. R2 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

SEPTEMBER 14, 2010, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 14, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

656-69-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLC, for JVM Company, LLC, owner.

SUBJECT – Application May 6, 2010 – Extension of Term of a (UG9) parking lot accessory to an existing funeral home establishment which expired on May 27, 2010; Extension of Time to obtain a Certificate of Occupancy; waiver of the rules. R-5 zoning district.

PREMISES AFFECTED – 2617/23 Harway Avenue, aka 208/18 Bay 43rd Street. North west corner Harway Avenue and Bay 43rd Street. Block 6897, Lots 1 & 2, Borough of Brooklyn.

COMMUNITY BOARD #13BK

322-98-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for HUSA Management Company, LLC, owner; TSI West 125 LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application–Extension of Term of a previously granted Special Permit (73-36) for the operation of a Physical Culture Establishment (New York Sports Club) which expired on March 23, 2009; Amendment to legalize the increase in floor area; Waiver of the Rules. C4-4(125) zoning district.

PREMISES AFFECTED – 300 West 125th Street, south side of West 12th Street between Saint Nicholas Avenue and Fredericks Douglas Boulevard, Block 1951, Lots 22, 25, 27, 28, 29, 33, 39, Borough of Manhattan.

COMMUNITY BOARD #10M

294-99-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, for 521 5th Avenue Partners, LLC, owner; Equinox- 43rd Street, Incorporated, lessee.

SUBJECT – Application June 1, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (Equinox) which expired on May 9, 2010. C5-3(MID) & C5-2.5(MID) zoning district.

PREMISES AFFECTED – 521 5th Avenue, north east corner of 5th Avenue and East 43rd Street, Block 1278, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

161-00-BZ

APPLICANT – Stuart A. Klein, Esquire, for Stellar Sutton, LLC, owner; Mario Badescu Skin, Incorporated, lessee.

SUBJECT – Application–Extension of Term of a previously granted Variance (72-21) for the operation of a Physical Culture Establishment (Bodescu Skin Care) which expired on June 2, 2010; Extension of Time to obtain a Certificate of Occupancy. R8B zoning district.

PREMISES AFFECTED – 320 East 52nd Street, between 1st and 2nd Avenue, Block 1344, Lot 41, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEALS CALENDAR

121-10-A

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for 25-50 FLB LLC, owner.

SUBJECT – Application July 1, 2010 – An appeal challenging the Department of Buildings determination that a demolition permit signoff was required before issuance of an alteration permit as per BC 28 -105.3 of the NYC Building Code . R2A zoning district.

PREMISES AFFECTED – 25-50 Francis Lewis Boulevard aka 166-43 168th Street, southwest corner of Francis Lewis Boulevard and 168th Street, Block 4910, Lot 16, Borough of Queens.

COMMUNITY BOARD #7Q

138-10-A

APPLICANT –Melvin A. Glickman, P.E.-NYCEDC, for NYC Department of Small Business Services, owners.

SUBJECT – Application August 6, 2010 – Construction within the mapped street, contrary to General City Law 35. M1-1 Zoning District.

PREMISES AFFECTED – 174-20 North Boundary Road, Rockaway Boulevard to the north, Farmers Boulevard to the west, Guy R. Brewer Boulevard to the east, Block 14260, Lot 110, Borough of Queens

COMMUNITY BOARD #13Q

CALENDAR

SEPTEMBER 14, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 14, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

29-10-BZ

APPLICANT – Sheldon Lobel, P.C., for R.A.S. Associates, owner; Mojave Restaurant, lessee.

SUBJECT – Application March 4, 2010 – Special Permit (§73-52) to allow for an outdoor eating and drinking establishment within a residential district. C1-2 and R5 zoning districts.

PREMISES AFFECTED – 22-32/36 31st Street, Ditmas Boulevard and 23rd Avenue, Block 844, Lot 49, Borough of Queens.

COMMUNITY BOARD #1Q

43-10-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Cammastro Corp./Maria Pilato, owner; First Club One LLC/Spiro Tsadilas, lessee.

SUBJECT – Application March 30, 2010– Special Permit (§73-244) to allow an eating and drinking establishment without restrictions and no limitation on entertainment and dancing. The proposal is contrary to 32-21. C2-2 in R5 zoning district.

PREMISES AFFECTED – 23-70 Steinway Street, west side of Steinway Street, 17.65’ north of Astoria Boulevard North, Block 803, Lot 75, Borough of Queens.

COMMUNITY BOARD #1Q

95-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Raymond Kohanbash, owner.

SUBJECT – Application May 27, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (ZR §23-141); side yard (ZR §23-461) and less than the required rear yard (§ 23-47). R3-2 zoning district.

PREMISES AFFECTED – 2216 Quentin Road, south side of Quentin Road between East 22nd Street and East 23rd Street, Block 6805, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #15BK

100-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Gittie Wertenteil and Ephrem Wertenteil, owners.

SUBJECT – Application June 2, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (§23-141), side yard (§23-461 & §23-48) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 2512 Avenue R, south side of Avenue R between Bedford Avenue and East 26th Street, Block 6831, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #15BK

101-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Crosby 54 LLC, owners.

SUBJECT – Application June 4, 2010 – Variance (§72-21) to allow a commercial use below the floor level of the second story, contrary to §42-14(D)(2)(b). M1-5B zoning district.

PREMISES AFFECTED – 54 Crosby Street, west side of Crosby Street between Broome and Spring Streets, Block 483, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #2M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, AUGUST 17, 2010
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

139-92-BZ

APPLICANT – Samuel H. Valencia, for Samuel H. Valencia-Valencia Enterprises, owners.

SUBJECT – Application April 23, 2010 – Extension of Term for a previously granted Special Permit (§73-244) for the continued operation of a UG12 Eating and Drinking Establishment with Dancing (*Deseos*) which expired on March 7, 2010; Waiver of the Rules. C2-2/R6 zoning district.

PREMISES AFFECTED – 52-15 Roosevelt Avenue, north side 125.53’ east of 52nd Street, Block 1316, Lot 76, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Samuel H. Valencia.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of term of a previously granted special permit for an eating and drinking establishment without restrictions on entertainment (UG 12A), which expired on March 7, 2010; and

WHEREAS, a public hearing was held on this application on June 15, 2010, after due notice by publication in *The City Record*, with continued hearings on July 13, 2010 and August 3, 2010, and then to decision on August 17, 2010; and

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

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

WHEREAS, the subject site is located on the north side of Roosevelt Avenue, between 52nd Street and 53rd Street, within a C2-2 (R6) zoning district; and

WHEREAS, the site is occupied by an eating and drinking establishment with entertainment, operated as *Deseos*; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 7, 1995, when, under the subject calendar number, the Board granted a special permit under ZR

§ 73-244 to permit the operation of an eating and drinking establishment with dancing (Use Group 12) on the first floor of an existing three-story building, for a term of three years; and

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

WHEREAS, most recently, on November 20, 2007, the Board granted an additional three-year term, which expired on March 7, 2010; and

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

WHEREAS, at hearing, the Board raised concerns about the status of the rear of the property, and directed the applicant to establish that the rear area is not enclosed; and

WHEREAS, in response, the applicant submitted photographs reflecting that the rear area is unenclosed but has overhead beams that the applicant represents are required to support the air conditioning units; and

WHEREAS, the Board also directed the applicant to document that the sprinkler system at the site has been properly inspected and approved by the Department of Buildings; and

WHEREAS, in response, the applicant submitted a certificate for sprinkler inspection and monthly inspection reports; 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 *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on March 7, 1995, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the term for a period of three years from March 7, 2010, to expire on March 7, 2013, *on condition*:

THAT the term of this grant shall expire on March 7, 2013;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 400322469)

Adopted by the Board of Standards and Appeals, August 17, 2010.

MINUTES

268-98-BZ

APPLICANT – Sheldon Lobel, P.C., for 1252 Forest Avenue Realty Corporation, owner.

SUBJECT – Application April 14, 2010 – Extension of Term for the continued use of a Gasoline Service Station with accessory Convenience Store (*7-Eleven*) which expired on August 10, 2009; Extension of Time to obtain a Certificate of Occupancy which expired on August 10, 2000; Waiver of the Rules. C2-1/R3-2 zoning district.

PREMISES AFFECTED – 1252 Forest Avenue, southwest corner of Forest Avenue and Jewett Avenue, Block 388, Lot 54, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Josh Rhinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term of a previously granted variance for a gasoline service station, which expired on August 10, 2009, and an extension of time to obtain a certificate of occupancy, which expired on August 10, 2000; and

WHEREAS, a public hearing was held on this application on June 22, 2010, after due notice by publication in *The City Record*, with a continued hearing on July 27, 2010, and then to decision on August 17, 2010; and

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

WHEREAS, Community Board 1, Staten Island, recommends approval of this application, with the condition that the applicant obtain a new certificate of occupancy within one year; and

WHEREAS, the site is located on the southwest corner of Forest Avenue and Jewett Avenue, within a C2-1 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 22, 1957 when, under BSA Cal. No. 1008-55-BZ, the Board granted a variance for a gasoline service station with accessory uses for a term of 15 years, to expire January 22, 1972; and

WHEREAS, on December 10, 1957, the Board granted an amendment to permit changes to the size and number of curb cuts as well as the design of the fences at the site; and

WHEREAS, most recently, on August 10, 1999, under the subject calendar number, the Board granted a special permit under ZR § 73-211, to permit the construction of an automotive service station with gas sales and a convenience store for a term of ten years, to expire on August 10, 2009; a condition of the grant was that a certificate of occupancy be obtained by August 10, 2000; and

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

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

WHEREAS, at hearing, the Board directed the applicant to remove the placard sign that had been placed along the Forest Avenue frontage in the northwest corner of the site; and

WHEREAS, in response, the applicant notes that the sign belongs to the business located on the adjoining property, and submitted photographs reflecting that the sign has been removed from the site and placed on the adjoining property; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term and 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, as adopted on August 10, 1999, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from August 10, 2009 to August 10, 2019, and to permit an extension of time to obtain a certificate of occupancy to August 17, 2011; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked ‘Received April 14, 2010’-(4) sheets; and *on further condition*:

THAT the term of this grant shall expire on August 10, 2019;

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

THAT a new certificate of occupancy shall be obtained by August 17, 2011;

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. 520031126)

Adopted by the Board of Standards and Appeals, August 17, 2010.

74-49-BZ

APPLICANT – Sheldon Lobel, P.C., for 515 Seventh Associates, owners.

SUBJECT – Application January 19, 2010 – Extension of Time to obtain a Certificate of Occupancy for an existing parking garage which expired on September 17, 2009; Waiver of the Rules. M1-6 (Garment Center) zoning district.

PREMISES AFFECTED – 515 Seventh Avenue, southeast corner of the intersection of Seventh Avenue and West 38th

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Street, Block 813, Lot 64, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Laid over to October 19, 2010, at 10 A.M., for continued hearing.

558-71-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for WB Management of NY LLC, owner.

SUBJECT – Application March 26, 2010 – Amendment to a previously granted Variance (§72-21) to permit the change of a UG6 eating and drinking establishment to a UG6 retail use without limitation to a single use; minor reduction in floor area; increase accessory parking and increase to the height of the building façade. R3-1 zoning district.

PREMISES AFFECTED – 1949 Richmond Avenue, east side of Richmond Avenue at intersection with Amsterdam Place, Block 2030, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for continued hearing.

637-74-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 56th Realty LLC c/o Glenwood Management Corporation, owner.

SUBJECT – Application July 1, 2010 – Extension of Term for transient parking in a garage accessory to a multiple dwelling which expired on May 6, 2010; Waiver of the Rules. C1-9(TA)/R8 zoning district.

PREMISES AFFECTED – 1048-62 Second Avenue, East 55th Street, East 56th Street, First Avenue and Second Avenue, Block 1348, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Jim Power.

ACTION OF THE BOARD – Laid over to September 14, 2010, at 10 A.M., for continued hearing.

221-97-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for DFD Development Limited Partnership, owner; Crunch Kips Bay LLC, lessee.

SUBJECT – Application April 29, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the operation of a physical culture establishment which expired on June 16, 2008; Amendment for a change in ownership from *Bally Total Fitness* to *Crunch Fitness*; Waiver of the Rules. C2-5/R-8 zoning district.

PREMISES AFFECTED – 550 Second Avenue, east side of Second Avenue at southeast corner of East 30th Street, Block 936, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Ellen Hay.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to September 14, 2010, at 10 A.M., for decision, hearing closed.

200-98-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 633 Realty LLC, owner; TSI East 41 LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application July 27, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*New York Sports Club*) which expired on April 30, 2008; Waiver of the Rules. C5-3(Mid) zoning district.

PREMISES AFFECTED – 633 Third Avenue, east side of Third Avenue, between East 40th and East 41st Streets, Block 1312, Lots 1401, 1456, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to September 14, 2010, at 10 A.M., for decision, hearing closed.

290-99-BZ

APPLICANT – Rothkrug, Rothkrut & Spector, for Almi Greenwich Associates, owner; Equinox Fitness Club, lessee.

SUBJECT – Application April 6, 2010 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a Physical Culture Establishment (*Equinox*) which expired on March 28, 2010. C1-6/R6 zoning district.

PREMISES AFFECTED – 99/101 Greenwich Avenue, south west corner of Greenwich Avenue and West 12th Street, Block 615, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to September 14, 2010, at 10 A.M., for decision, hearing

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closed.

136-01-BZ

APPLICANT –Eric Palatnik, P.C., for Cel Net Holdings Corporation, owners.

SUBJECT – Application June 23, 2010 – Extension of Time to Complete Construction and Obtain a Certificate of Occupancy for a Variance (§72-21) which permitted non-compliance in commercial floor area and rear yard requirements which expired on July 12, 2010. M1-4/R7A(LIC) zoning district.

PREMISES AFFECTED – 11-11 44th Drive, east of 11th Street, Block 447, Lot 13, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Trevis Savage

ACTION OF THE BOARD – Laid over to September 14, 2010, at 10 A.M., for continued hearing.

APPEALS CALENDAR

71-10-A thru 84-10-A

APPLICANT – Eric Palatnik, P.C., for Brighton Street, LLC, owners.

SUBJECT – Application May 10, 2010 – Appeals seeking a determination that the owner has acquired a vested right to complete construction under the prior R3-2 zoning district. R3-1 zoning district.

PREMISES AFFECTED – 102-118 Turner Street and 1661 to 1669 Woodrow Road, between Crabtree Avenue and Woodrow Road, Block 7105, Lots 181 thru 188 and 2 thru 8, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Trevis Savage.

ACTION OF THE BOARD – Appeal granted.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an appeal requesting a Board determination that the owner of the premises has obtained the right to complete construction on 14 single-family attached homes under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on August 3, 2010, after due notice by publication in *The City Record*, and then to decision on August 17, 2010; and

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

WHEREAS, Community Board 3, Queens, recommends

approval of the application; and

WHEREAS, New York State Senator Andrew J. Lanza provided written testimony in opposition to this application; and

WHEREAS, the Civic Association of the Sandy Ground Area provided written testimony in opposition to this application; and

WHEREAS, the site is located on the northwest corner of Turner Street and Woodrow Street and has a lot area of 44,069 sq. ft.; and

WHEREAS, the applicant proposes to develop the site with nine three-story single-family attached homes and five two-story single-family attached homes; and

WHEREAS, the Board notes that the homes are located on a single zoning lot that has been subdivided into 15 separate tentative tax lots; with one tax lot designated for off-street parking; and

WHEREAS, the subject site is currently located within an R3-1 zoning district, but was formerly located within an R3-2 zoning district; and

WHEREAS, the proposed homes comply with the former R3-2 zoning district parameters; and

WHEREAS, however, on February 3, 2010 (the “Enactment Date”), the City Council voted to adopt the Sandy Ground Rezoning, which rezoned the site to R3-1, as noted above; and

WHEREAS, the homes do not comply with the R3-1 zoning district parameters because attached homes are not permitted in R3-1 districts; and

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

WHEREAS, the Board notes that New Building Permit Nos. 520010737-01-NB, 520010728-01-NB, 520010719-01-NB, 520010700-01-NB, 520010746-01-NB, 520010755-01-NB, 520010764-01-NB, 520010773-01-NB, 520010782-01-NB, 520004049-01-NB, 520004691-01-NB, 520004717-01-NB, 520004708-01-NB and 520004030-01-NB (the “New Building Permits”), which authorized the development of the 14 single-family attached homes pursuant to R3-2 zoning district regulations were issued on February 3, 2010; and

WHEREAS, the Department of Buildings (“DOB”) issued a Stop Work Order on March 29, 2010 (“March 29th SWO”), stating that work permits were not obtained prior to the Enactment Date; and

WHEREAS, the applicant submitted a correspondence from DOB acknowledging that the New Building Permits were issued prior to the enactment of the zoning amendment and rescinding the March 29th SWO; and

WHEREAS, the New Building Permits lapsed by operation of law on the Enactment Date because the plans did not comply with the new R3-1 zoning district regulations and DOB determined that the foundations were not complete; and

WHEREAS, in addition, DOB issued a Stop Work Order dated April 9, 2010 (“April 9th SWO”), which states that all work on foundations was not complete before the effective date of the zoning amendment, and therefore DOB could not vest the project in accordance with ZR §§ 11-31 and 11-33; and

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WHEREAS, by letter dated July 28, 2010, DOB stated that the New Building Permits were lawfully issued, authorizing construction of the building prior to the Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the New Building Permits were lawfully issued to the owner of the subject premises prior to the Enactment Date; and

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

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

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

WHEREAS, as to substantial construction, the applicant states that prior to the Enactment Date, the owner had completed the following: 100 percent of excavation work and the pouring of 321.5 cubic yards of concrete, or 91 percent of the concrete required for the foundation; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: photographs of the site, concrete pour tickets, a construction log, and copies of cancelled checks; and

WHEREAS, at hearing, the Board directed the applicant to address DOB's statement in the April 9th SWO that the concrete poured at the site was contrary to what was specified on approved documents, because the applicant's TR-2 and TR-3 forms stated that the concrete was to be at a strength of 4,000 psi, while the concrete delivery tickets indicated a strength of 3,000 psi; and

WHEREAS, in response, the applicant submitted a post approval amendment dated July 14, 2010, reflecting DOB's approval of the change in concrete strength from 4,000 psi to 2,500 psi; and

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

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

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

WHEREAS, the applicant states that prior to the Enactment Date, the owner expended \$610,454, including hard and soft costs and irrevocable commitments, out of \$2,862,346 budgeted for the entire project; and

WHEREAS, as proof of the expenditures, the applicant has submitted invoices, cancelled checks, and concrete pour tickets; and

WHEREAS, thus, the expenditures up to the Enactment Date represent approximately 21 percent of the projected total cost; and

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

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

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

WHEREAS, the applicant states that, because attached homes are not permitted in the new R3-1 zoning district, if development proceeded under the new zoning, the applicant would have to either relocate the existing foundations, or remove them entirely; and

WHEREAS, the applicant submitted an as-of-right scenario reflecting that if the owner demolished the existing foundations and built in accordance with the new zoning, a maximum of 11 homes (ten semi-detached homes and one detached home) could be constructed, resulting in a loss of \$655,354; and

WHEREAS, the applicant submitted a second as-of-right scenario reflecting that if the owner salvaged and re-used portions of the existing foundations for the development, it would decrease the allowable dwelling unity and result in the construction of ten homes (eight semi-detached homes and two detached homes), resulting in a loss of \$811,594; and

WHEREAS, the Board agrees that the reduction in the number of homes capable of being built on the site, coupled with the need to redesign and the loss of actual expenditures that could not be recouped, constitutes a serious economic loss, and that the supporting data submitted by the applicant

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supports this conclusion; and

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

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a reinstatement of the New Building Permits associated with DOB Application Nos. 520010737-01-NB, 520010728-01-NB, 520010719-01-NB, 520010700-01-NB, 520010746-01-NB, 520010755-01-NB, 520010764-01-NB, 520010773-01-NB, 520010782-01-NB, 520004049-01-NB, 520004691-01-NB, 520004717-01-NB, 520004708-01-NB and 520004030-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, August 17, 2010.

274-09-A

APPLICANT – Fire Department of New York, for Di Lorenzo Realty, Co, owner; 3920 Merritt Avenue, lessee.
SUBJECT – Application September 25, 2009 – Application to modify Certificate of Occupancy to require automatic wet sprinkler system throughout the entire building.
PREMISES AFFECTED – 3920 Merritt Avenue, aka 3927 Mulvey Avenue, 153’ north of Merritt and East 233rd Street, Block 4972, Lot 12, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Anthony Scaduto.

For Opposition: Joel A. Miele Jr.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for continued hearing.

110-10-BZY

APPLICANT – Cozen O’Connor, for Landmark Developers of Rockaway, owners.

SUBJECT – Application June 18, 2010 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior R6 zoning. R5A zoning district
PREMISES AFFECTED – 93-06 Shore Front Parkway, north side of Shore Front Parkway from B.94th to B.93rd Street, Block 16130, Lot 11, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Peter Geis

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for continued hearing.

123-10-A

APPLICANT – Fire Department of the city of New York
OWNER – DiLorenzo Realty Corporation
LESSESS – Flair Display Incorporated
SUBJECT – Application July 6, 2010 – Application to modify Certificate of Occupancy to require automatic wet sprinkler system throughout the entire building.
PREMISES AFFECTED – 3931 Mulvey Avenue, 301.75’ north of East 233rd Street. Block 4972, Lot 60, Borough of the Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Anthony Scaduto.

For Opposition: Joel A. Miele Jr.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for continued hearing.

124-10-A

APPLICANT – Fire Department of the city of New York
OWNER – DiLorenzo Realty Corporation
LESSESS – Flair Display Incorporated
SUBJECT – Application July 6, 2010 – Application to modify Certificate of Occupancy to require automatic wet sprinkler system throughout the entire building.
PREMISES AFFECTED – 3927 Mulvey Avenue, 301.75’ north of East 233rd Street. Block 4972, Lot 162, Borough of the Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Anthony Scaduto.

For Opposition: Joel A. Miele Jr. and Gene DeLorenzo.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, AUGUST 17, 2010
1:30 P.M.**

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

ZONING CALENDAR

254-09-BZ thru 256-09-BZ

APPLICANT – Ivan F. Khoury, for Kearney Realty Corporation, owner.

SUBJECT – Application September 4, 2009 – Variance (§72-21) to legalize three existing homes, contrary to front yard (§23-45) and rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 101-03/05/07 Astoria Boulevard aka 27-31 Kearney Street, north side of Astoria Boulevard & northeasterly side of Kearney Street, Block 1659, Lot 51, 53, 56, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Ivan F. Khoury.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Superintendent, dated November 17, 2009, acting on Department of Buildings Application Nos. 401716381, 401716407, and 401719486, reads in pertinent part:

- “1) ZR 23-45 Front yard provided for proposed new buildings is contrary to ZR 23-45(a)
- 2) ZR 23-47 Show compliance with ZR 23-47 for required rear yard;” and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3-2 zoning district, the construction of two two-story two-family homes and one two-story single-family home that do not provide the required front and rear yards, contrary to ZR §§ 23-45 and 23-47; and

WHEREAS, a public hearing was held on this application on March 9, 2010, after due notice by publication in *The City Record*, with continued hearings on June 8, 2010 and July 13, 2010, and then to decision on August 17, 2010; 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 3, Queens, recommends approval of this application, with the condition that the

applicant (1) submit planting plans to the Community Board for review and approval; and (2) repair damages incurred to the foundation wall of the neighboring property; and

WHEREAS, Queens Borough President Helen Marshall recommends approval of this application, with the condition that the applicant comply with the yard planting requirements of the Zoning Resolution; and

WHEREAS, the site is located on the north side of Astoria Boulevard and the east side of Kearney Street, within an R3-2 zoning district; and

WHEREAS, the site consists of a single zoning lot comprising four separate tax lots: Lot 51, Lot 52, Lot 54 and Lot 56; and

WHEREAS, the site has an irregular triangular shape, with 121'-11" of frontage along Astoria Boulevard, 21'-11" of frontage along Kearney Street, a depth ranging between 23'-2" and 105'-0", and a total lot area of 7,577 sq. ft.; and

WHEREAS, the applicant seeks to legalize the three attached homes that have been constructed at the site, consisting of two two-story two-family homes and one two-story single-family home; and

WHEREAS, the proposed homes will have the following complying parameters: a total floor area of 4,493 sq. ft. (0.59 FAR, permitted under the attic rule); open space of 65 percent; lot coverage of 35 percent; a wall height of 21'-0"; a total height of 23'-6"; a side yard with a width of 8'-0" along the western lot line; and a side yard with a width of 32'-3" along the eastern lot line; and

WHEREAS, however, the applicant proposes to provide a front yard with a minimum depth of 10'-0" (a front yard with a minimum depth of 15'-0" is required), and a rear yard with a minimum depth of 1'-9" (a rear yard with a minimum depth of 30'-0" is required); and

WHEREAS, the Board notes that the applicant initially proposed homes with building envelopes that encroached into the front yard at both the first and second floors; and

WHEREAS, at hearing, the Board directed the applicant to minimize the front yard encroachment of the three homes; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the homes will be setback above the first floor, such that there will not be a front yard encroachment above the first floor; and

WHEREAS, the applicant states that the requested yard relief is necessary, for reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the lot's irregular shape; and

WHEREAS, the applicant states that the site has an irregular triangular shape, with 121'-11" of frontage along Astoria Boulevard, 21'-11" of frontage along Kearney Street, and a depth ranging between 23'-2" and 105'-0"; and

WHEREAS, the applicant represents that, given the irregular shape of the lot, the site cannot feasibly accommodate a complying development; and

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WHEREAS, specifically, the applicant submitted as-of-right plans reflecting that, as a consequence of its irregular shape, a complying development would result in triangular-shaped homes with inefficient floor plates; and

WHEREAS, accordingly, the applicant represents that the yard waivers are necessary to create a development with reasonable floor plates; and

WHEREAS, based upon the above, the Board finds that the cited unique physical condition creates practical difficulties in developing the site in strict compliance with the applicable yard regulations; and

WHEREAS, the applicant submitted a feasibility study which analyzed: (1) an as-of-right five-unit multiple dwelling; (2) an as-of-right alternative with three two and one-half story single-family homes; and (3) the proposed scenario; and

WHEREAS, the study concluded that only the proposed scenario would realize a reasonable return; and

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

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant submitted a radius diagram reflecting that the surrounding neighborhood is characterized predominantly by two-story single-family homes; and

WHEREAS, the applicant notes that the proposed bulk is compatible with nearby residential development and that that it complies with all relevant bulk regulations other than front and rear yards; and

WHEREAS, specifically, the applicant notes that the proposed home complies with the R3-2 zoning district regulations for FAR, side yards, open space, lot coverage, height, and parking; and

WHEREAS, the applicant states that the proposed front yard with a minimum width of 10'-0" is located along the Astoria Boulevard frontage; and

WHEREAS, the applicant further states that Astoria Boulevard is an eight lane arterial roadway with a width of 130 feet; therefore, the proposed front yards will not impact the properties located across from the subject site on Astoria Boulevard; and

WHEREAS, the applicant further states that the lot immediately adjacent to the east of the subject site on Astoria Boulevard is an open commercial yard, and the only other lot on the subject block with frontage on Astoria Boulevard is a one-story commercial building that provides less than a 10'-0" deep yard along Astoria Boulevard; and

WHEREAS, as to the requests of the Community Board and Borough President related to planting at the site, the Board agrees that the applicant must comply with the planting requirements of ZR § 23-451; and

WHEREAS, as to the Community Board's request that the applicant repair damages incurred to the adjacent property, the Board notes that concerns regarding property damage are not within the purview of the Board's analysis under ZR § 72-

21 and it is not within the Board's jurisdiction to resolve disputes between property owners; and

WHEREAS, therefore, 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 unnecessary hardship encountered by compliance with the zoning regulations is inherent to the site's irregular shape; and

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

WHEREAS, the Board notes that the applicant initially proposed homes with building envelopes that encroached into the front yard at both the first and second floors; and

WHEREAS, at hearing, the Board directed the applicant to minimize the front yard encroachment of the three homes; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the homes will be setback above the first floor, such that there will not be a front yard encroachment above the first floor; and

WHEREAS, the Board finds that this proposal, which complies with all zoning regulations except for front and rear yards is the minimum necessary to afford the owner relief; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21 to permit, in an R3-2 zoning district, the construction of two two-story two-family homes and one two-story single-family home that do not provide the required front and rear yards, contrary to ZR §§ 23-45 and 23-47; *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 June 30, 2010"-(8) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: a maximum of 4,493 sq. ft. of floor area (0.59 FAR), a side yard with a minimum width of 8'-0" along the western lot line; a side yard with a minimum width of 32'-3" along the eastern lot line; a front yard with a minimum depth of 10'-0"; a rear yard with a minimum depth of 1'-9"; a minimum open space of 65 percent; a maximum lot coverage of 35 percent; a wall height of 21'-0"; a total height of 23'-0"; and parking for five cars, as per the BSA-approved plans;

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

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT there shall be no habitable room in the cellar;

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

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only for the portions related to the specific relief granted;

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

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, August 17, 2010.

59-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Kaufman 8th Avenue Associates, owner; Bension Salon Inc., lessee.

SUBJECT – Application April 23, 2010 – Special Permit (73-36) to allow a physical culture establishment (*Luxe Den Salon & Spa*). M1-6/C6-4M zoning district.

PREMISES AFFECTED – 519 Eighth Avenue, southwest corner of West 36th Street and Eighth Avenue, Block 759, Lot 45, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 25, 2010, acting on Department of Buildings Application No. 120255204, reads in pertinent part:

*“ZR 42-10. The proposed physical culture establishment is not permitted as-of-right in the manufacturing district and is contrary to the ZR;”
and*

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within an M1-6 zoning district and partially within a C6-4M zoning district, within the Special Garment Center District, the operation of a physical culture establishment (“PCE”) on the cellar, first floor and mezzanine of a 25-story mixed-use commercial/manufacturing building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on June 8, 2010 after due notice by publication in *The City Record*, with a continued hearing on July 27, 2010, and then to decision on August 17, 2010; and

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

WHEREAS, Community Board 4, Manhattan, states that it has no objection to this application; and

WHEREAS, the subject site is located on the southwest corner of Eighth Avenue and West 36th Street, partially within an M1-6 zoning district and partially within a C6-4M zoning district, within the Special Garment Center District; and

WHEREAS, the site is occupied by a 25-story mixed-use commercial/manufacturing building; and

WHEREAS, the proposed PCE will occupy a total floor area of 3,160 sq. ft. on the first floor and mezzanine, with an additional 3,275 sq. ft. of floor space located in the cellar; and

WHEREAS, the PCE will be operated as Luxe Den Salon and Spa; and

WHEREAS, the proposed hours of operation are 8:00 a.m. to 10:00 p.m., daily; and

WHEREAS, the applicant represents that the services at the PCE include facilities for the practice of massage; and

WHEREAS, at hearing, the Board questioned how handicap access will be provided to the cellar level; and

WHEREAS, in response, the applicant states that it is requesting a waiver from the Department of Buildings (“DOB”) of the accessibility requirement for the cellar level due to the small size of the PCE’s cellar space and the hardship of providing access to that space; and

WHEREAS, the applicant further states that if the waiver request is not granted by DOB, it will install a wheelchair lift providing direct access from the PCE’s first floor to its cellar level; and

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

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 17.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 0BSA066M, dated May 25, 2010; 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;

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site partially within an M1-6 zoning district and partially within a C6-4M zoning district, within the Special Garment Center District, the operation of a physical culture establishment at the cellar, first floor and mezzanine of an existing 25-story mixed-use commercial/manufacturing building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received July 19, 2010" - Four (4) sheets; and *on further condition*:

THAT the term of this grant shall expire on August 17, 2020;

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, August 17, 2010.

64-10-BZ

APPLICANT – Law Office Fredrick A. Becker, for Nechama Sonnenschine and Harry Sonnenschine, owners. SUBJECT – Application April 29, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yards (§23-461 & 23-48) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 1253 East 29th Street, east side of East 29th Street, between Avenue L and Avenue M, Block 7647, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 23, 2010, acting on Department of Buildings Application No. 320118608, reads:

“Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio.

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space ratio.

Proposed plans are contrary to ZR 23-461 and 23-48 in that the proposed straight line extension of the side yard provides less than the minimum required side yard.

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

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

WHEREAS, a public hearing was held on this application on June 15, 2010 after due notice by publication in *The City Record*, with a continued hearing on July 27, 2010, and then to decision on August 17, 2010; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application, with the condition that the FAR be no greater than 1.0; and

WHEREAS, the subject site is located on the east side of East 29th Street, between Avenue M and Avenue L, within an R2 zoning district; and

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WHEREAS, the subject site has a total lot area of 3,150 sq. ft., and is occupied by a single-family home with a floor area of 2,110 sq. ft. (0.67 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,110 sq. ft. (0.67 FAR) to 3,170 sq. ft. (1.01 FAR); the maximum permitted floor area is 1,575 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of approximately 61 percent (150 percent is the minimum required); and

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

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 22'-0" (a minimum rear yard depth of 30'-0" is required); and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, 23-48 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received July 14, 2010"-(10) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,170 sq. ft. (1.01 FAR); an open space ratio of approximately 61 percent; a front yard with a minimum depth of 13'-6"; a side yard with a minimum width of 6'-9½" along the southern lot line; a side yard with a minimum width of 3'-0" along the northern lot line; and a rear yard with a minimum depth of 22'-0", as illustrated on the BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, August 17, 2010.

65-10-BZ

APPLICANT – Eric Palatnik, P.C., for Anna Shterman, owner.

SUBJECT – Application May 3, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, lot coverage and open space (§23-141) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 55 Beaumont Street, east side of Beaumont Street, south of Hampton Avenue, Block 8728, Lot 83, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....5

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 27, 2010, acting on Department of Buildings Application No. 320115790, reads in pertinent part:

- “1. Proposed floor area ratio is contrary to ZR 23-141.
2. Proposed open space is contrary to ZR 23-141.
3. Proposed lot coverage is contrary to ZR 23-141.
4. Proposed rear yard is contrary to ZR 23-47;”
and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio

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("FAR"), open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on June 22, 2010 after due notice by publication in *The City Record*, with a continued hearing on August 3, 2010, and then to decision on August 17, 2010; and

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

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

WHEREAS, the subject site is located on the east side of Beaumont Street, between Hampton Avenue and Shore Boulevard, within an R3-1 zoning district; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 2,227 sq. ft. (0.56 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,227 sq. ft. (0.56 FAR) to 4,000 sq. ft. (1.0 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space of approximately 61 percent (65 percent is the minimum required); and

WHEREAS, the applicant proposes to provide a lot coverage of approximately 39 percent (35 percent is the maximum permitted); and

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

WHEREAS, at hearing, the Board questioned why the applicant was removing the existing cellar from the home; and

WHEREAS, in response, the applicant submitted a letter from the architect stating that the site is located within a flood zone and the cellar is below the flood plane elevation; therefore, the existing cellar is being eliminated and converted into a crawl space in accordance with the Building Code requirement that neither usable space nor mechanical space be located below the flood plane elevation; and

WHEREAS, at hearing, the Board questioned how much of the existing home is being retained; and

WHEREAS, in response, the applicant submitted a letter from the architect stating that all of the perimeter and area of exterior foundation walls and the majority of the perimeter and area of exterior first floor walls are being retained; and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R3-1 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received May 3, 2010"-(1) sheet and "June 8, 2010"-(9) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,000 sq. ft. (1.0 FAR); an open space of approximately 61 percent; a lot coverage of approximately 39 percent; a front yard with a depth of 16'-11"; a side yard with a minimum width of 8'-0" along the southern lot line; a side yard with a minimum width of 5'-0" along the northern lot line; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, August 17, 2010.

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93-10-BZ

CEQR #10-BSA-074K

APPLICANT – Harold Weinberg, P.E. for Paul Grosman, owner; Williamsburg Charter School, lessee.

SUBJECT – Application May 25, 2010 – Variance (§72-21) to convert the ground floor of a community facility (*Williamsburg Charter School*) from parking to school use, contrary to floor area regulations (§43-122).

PREMISES AFFECTED – 198 Varet Street, south side 170'6" west of White Street, between White Street and Bushwick Avenue. Block 3117, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Harold Weimberg and Frank Sellitto.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated May 12, 2010, acting on Department of Buildings Application No. 301100671, reads in pertinent part:

“The altered arrangement of the 1st floor is contrary to BSA Cal. No. 43-09-BZ, in an M1-2 zoning district which causes an increase in the FAR making this change to the building non-complying as to bulk regulations and is referred back to the Board of Standards and Appeals;” and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-2 zoning district, the expansion of floor area-generating uses on the first floor of an existing eight-story school building (Use Group 3), which does not comply with zoning regulations for floor area ratio (“FAR”), contrary to ZR § 43-122; and

WHEREAS, a public hearing was held on this application on August 3, 2010, after due notice by publication in the *City Record*, and then to decision on August 17, 2010; and

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

WHEREAS, Community Board 1, Brooklyn, recommends approval of the application, with the condition that the site not be used for residential uses; and

WHEREAS, this application is brought on behalf of The Williamsburg Charter High School (the “School”), a not for profit educational institution; and

WHEREAS, the site is located on the south side of Varet Street, between White Street and Bushwick Avenue, in an M1-2 zoning district; and

WHEREAS, the site has a lot area of 21,817 sq. ft.; and

WHEREAS, the site is occupied by an eight-story building which is operated by the School; and

WHEREAS, on January 26, 2010, under BSA Cal. No. 43-09-BZ, the Board granted a special permit to allow the

School to occupy the existing building, with a total floor area of 104,722 sq. ft. (4.38 FAR); and

WHEREAS, the applicant notes that the plans approved under BSA Cal. No. 43-09-BZ reflect a parking area, which is exempt from the floor area calculations, located in a portion of the first floor; and

WHEREAS, the applicant now proposes to occupy the entire first floor of the subject building with school uses, which will increase the floor area to 111,433 sq. ft. (5.11 FAR); the maximum permitted FAR for community facilities located in the subject M1-2 zoning district is 4.8; and

WHEREAS, the proposed first floor will be occupied by a fitness center, a food court, a kitchen, a school store, art rooms, and offices; and

WHEREAS, the applicant states that the proposed use of the first floor is necessary to meet the School’s programmatic needs of providing a cafeteria and adequate space for physical education and performing/studio art; and

WHEREAS, in order to meet its programmatic needs, the applicant seeks a variance pursuant to ZR § 72-21; and

WHEREAS, the applicant represents that the plans approved for the School under BSA Cal. No. 43-09-BZ did not include a cafeteria and provided inadequate physical education and performing/studio art space; and

WHEREAS, the applicant further represents that the School cannot accommodate cafeteria space and additional physical education and performing/studio art space while maintaining the remainder of the School’s program without expanding onto the entire first floor; and

WHEREAS, therefore, the applicant states that the requested floor area waiver is necessary to provide the school with the required cafeteria, physical education, and performing/studio art space; and

WHEREAS, the Board acknowledges that the School, 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 programmatic needs of the School create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; 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

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WHEREAS, as to the surrounding uses, the Board notes that it issued a special permit pursuant to ZR § 73-19, to permit the operation of the School within the subject M1-2 zoning district; and

WHEREAS, as to the bulk, the applicant states that the subject floor area non-compliance only arises due to the change of use at the first floor from parking, which is exempt from the floor area calculations, to school use; and

WHEREAS, the applicant notes that the proposed change to school use at the first floor will not increase the envelope of the existing building and does not result in any other non-compliances with the underlying bulk regulations; and

WHEREAS, at hearing, the Board questioned how garbage pickup would take place at the site; and

WHEREAS, in response, the applicant states that regular garbage will be picked up twice per week while recyclables will be picked up once per week, and that the School will contract a private waste disposal company to pick up garbage on a more frequent basis if necessary in order to meet Department of Education requirements; and

WHEREAS, at hearing, the Board inquired about the impact that the removal of parking spaces from the first floor of the subject building would have on the surrounding streets; and

WHEREAS, in response, the applicant submitted a letter from the owner of the subject site stating that parking will be provided for 25 cars at another building he owns at 211 Cook Street, which is approximately one block from the subject site; and

WHEREAS, the Board notes that the School is not required to provide parking to compensate for the parking spaces that will be lost from the first floor; and

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

WHEREAS, the applicant states that the hardship was not self-created, and that no development that would meet the programmatic needs of the School could occur given the existing conditions; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner; and

WHEREAS, the applicant represents that the requested waiver is the minimum necessary to accommodate the School's current and projected programmatic needs; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2 (ak); 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. 10BSA074K, dated May 26, 2010; and

WHEREAS, the EAS documents that the operation of the School 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 § 72-21 and grants a variance to permit, on a site within an M1-2 zoning district, the expansion of floor area-generating uses on the first floor of an existing eight-story school building (Use Group 3) which does not comply with zoning regulations for FAR, contrary to ZR § 43-122, *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 May 25, 2010" – (5) sheets and "Received July 20, 2010" – (1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: a maximum floor area of 111,433 sq. ft. (5.11 FAR);

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

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

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

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, August 17, 2010.

277-07-BZ

APPLICANT – Miele Associates, LLP, for Barnik Associates LLC & Lama Holdings, LLC, owner.

SUBJECT – Application December 3, 2007 – Variance (§72-21) proposed to erect a one story automotive service

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station with accessory convenience store, contrary to §22-10. R3-1 zoning district

PREMISES AFFECTED – 165-35 North Conduit Avenue, North west corner of North Conduit Avenue & Guy R, Brewer Boulevard. Block 12318, Lot 10, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Hiram Rothkrug, Joel Miele, Jr., and Adam Degesalomo.

ACTION OF THE BOARD – Laid over to October 5, 2010, at 1:30 P.M., for continued hearing.

219-09-BZ thru 223-09-BZ

APPLICANT – Gerald J. Caliendo, RA, for Daniel, Incorporated / East 147th Street LLC, owner.

SUBJECT – Application July 10, 2009 – Variance (§72-21) to allow for five, two family residential buildings, contrary to §42-00. M1-2 district.

PREMISES AFFECTED – 802, 804, 806, 808 and 810 East 147th Street, South side of East 147th Street, east of the intersection of East 147th Street and Tinton Avenue. Block 2582, Lots 10, 11, 110, 111 and 112, Borough of Bronx.

COMMUNITY BOARD # 1BX

APPEARANCES –

For Applicant: Sandy Anagnostou.

ACTION OF THE BOARD – Laid over to October 5, 2010, at 1:30 P.M., for an adjourned hearing.

234-09-BZ

APPLICANT – Sheldon Lobel, P.C., for Zenida Radoncic, owner.

SUBJECT – Application July 24, 2009 – Variance (§72-21) for the construction of a detached two-family home contrary to side yard regulations (§23-48). R-5 zoning district.

PREMISES AFFECTED – 25-71 44th Street, situated on the east side of 44th Street approximately 290 feet north of 28th Avenue. Block 715, Lot 16. Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Laid over to October 5, 2010, at 1:30 P.M., for continued hearing.

327-09-BZ

APPLICANT – Sheldon Lobel, P.C., for 255 Butler, LLC, owner.

SUBJECT – Application December 17, 2009 – Special Permit (§73-19) to allow a Use Group 3 charter school (*Summit Academy*) with first floor retail use in an existing warehouse. M1-2 zoning district.

PREMISES AFFECTED – 255 Butler Street, corner lot on Nevins Street between Butler and Baltic Streets, Block 405, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to August 24, 2010, at 1:30 P.M., for deferred decision, hearing closed.

63-10-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for 163-18 Jamaica Realty Inc., owner; Lucille Roberts Health Clubs, Inc., lessee.

SUBJECT – Application April 28, 2010 – Special Permit (§73-36) to legalize the operation of a physical culture establishment on the second floor of a seven-story commercial building. C6-3 zoning district.

PREMISES AFFECTED – 163-18 Jamaica Avenue, south side of Jamaica, 126' east of Guy Brewer Boulevard, Block 10151, Lot 7, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Sandy Anagnostou.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to September 14, 2010, at 1:30 P.M., for decision, hearing closed.

85-10-BZ

APPLICANT – Sheldon Lobel, P.C., for 309-315 East Fordham Road LLC, owner; Fordham Fitness Group LLC, lessee.

SUBJECT – Application May 12, 2010 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (*Planet Fitness*) on the first and second floors of an existing two-story building. C4-4 zoning district.

PREMISES AFFECTED – 309-311 East Fordham Road, Northwest corner of Kingbridge Road and East Fordham Road. Block 3154, Lot 94, Borough of the Bronx.

COMMUNITY BOARD #7BX

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Laid over to September 14, 2010, at 1:30 P.M., for continued hearing.

86-10-BZ

APPLICANT – Sheldon Lobel, P.C., for STM Development, LLC, owners.

SUBJECT – Application May 12, 2010 – Special Permit (§§11-411 & 11-412) for the re-instatement of a previously granted Variance for a UG16 manufacturing use which expired on June 10, 1980; the legalization of 180 square foot enlargement at the rear of the building; waiver of the rules. R-5 zoning district.

PREMISES AFFECTED – 93-08 95th Avenue, south side of

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95th Avenue, Block 9036, Lot 3, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to
September 14, 2010, at 1:30 P.M., for decision, hearing
closed.

60-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Soho Thompson
Realty, LLC, owner.

SUBJECT – Application April 26, 2010 – Variance (§72-
21) to allow a commercial use below the floor level of the
second story, contrary to §42-14(D)(2)(b). M1-5B zoning
district.

PREMISES AFFECTED – 54 Thompson Street, northeast
corner of Thompson Street and Broome Street, Block 488,
Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Richard Lobel and Barbara Cohen.

ACTION OF THE BOARD – Laid over to October
5, 2010, at 1:30 P.M., for continued hearing.

99-10-BZ

APPLICANT – Fridman Saks, LLP for Dora Weiss, owner.

SUBJECT – Application June 2, 2010 – Special Permit
(§73-622) for the in-Part legalization of construction into the
side yard on a corner lot and proposed enlargement to an
existing single family home, contrary to open space, lot
coverage and floor area (§23-141) and side yards (§23-461).
R3-2 zoning district.

PREMISES AFFECTED – 2302 Avenue S, Located on the
southeast corner of Avenue S and East 23rd Street. Block
7302, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Boris Saks.

ACTION OF THE BOARD – Laid over to
September 14, 2010, at 1:30 P.M., for continued hearing.

106-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Ka Won Realty
Corporation, owner; Harmony Spa, lessee.

SUBJECT – Application June 9, 2010 – Special Permit
(§73-36) to legalize a physical culture establishment
(*Harmony Spa*) on the third floor of an existing four-story
commercial building. M1-6 zoning district.

PREMISES AFFECTED – 240 West 38th Street, 3rd Floor,
Located on south side of West 38th Street between 7th and

8th Avenue. Block 787, Lot 64, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Elizabethe Safian.

ACTION OF THE BOARD – Laid over to
September 21, 2010, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.