
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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May 11, 2006

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CONTENTS

DOCKET	311
CALENDAR of June 13, 2006	
Morning	312
Afternoon	313

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, May 2, 2006**

Morning Calendar314

Affecting Calendar Numbers:

360-49-BZ	69-05 Eliot Avenue, Queens
540-43-BZ	87-17 111 th Street, Queens
357-72-BZ	355 West 255 th Street, The Bronx
1180-80-BZ	1 Tiffany Place, Brooklyn
705-81-BZ	1433-37 York Avenue, Manhattan
636-54-BZ	9612/24 Seaview Avenue, Brooklyn
39-66-BZ	43-70 Kissena Boulevard, Queens
337-79-BZ	2107 Avenue N, Brooklyn
111-01-BZ	9001 Ditmas Avenue, Brooklyn
359-02-BZ	53-55 Beach Street, Manhattan
428-05-BZY thru	
431-05-BZY	475, 473, 471, 470 Father Capodanno Boulevard, Staten Island
355-05-BZY	422 Prospect Avenue, Brooklyn
360-05-BZY	400 15 th Street, Brooklyn
362-05-BZY	639 Sixth Avenue, Brooklyn
367-05-A	639 Sixth Avenue, Brooklyn
368-05-A	400 15 th Street, Brooklyn
400-05-BZY/	
401-05-BZY	32-2 & 3204 Morley Avenue, Staten Island

Afternoon Calendar323

Affecting Calendar Numbers:

72-05-BZ	245 Hooper Street, Brooklyn
163-05-BZ	1134 28 th Street, Brooklyn
289-05-BZ	1106-1108 Utica Avenue, Brooklyn
293-05-BZ	8751 18 th Avenue, Brooklyn
340-05-BZ	270 West 17 th Street, Manhattan
19-06-BZ	745 Fox Street, The Bronx
47-05-BZ	90-15 Corona Avenue, Queens
52-05-BZ	6209 11 th Avenue, Brooklyn
132-05-BZ	220 West End Avenue, Brooklyn
182-05-BZ	4 Park Avenue, Manhattan
297-05-BZ	33 Vestry Street, Manhattan
314-05-BZ	1670 East 23 rd Street, Brooklyn
339-05-BZ	3574 Nostrand Avenue, Brooklyn
4-06-BZ	1435 East 21 st Street, Brooklyn
28-06-BZ	158 Beaumont Street, Brooklyn

DOCKETS

New Case Filed Up to May 2, 2006

76-06-BZ

150 East 58th Street, South side of East 58th Street, 85 feet east of the corner formed by intersection of Lexington Avenue and East 58th Street., Block 1312, Lot 41, Borough of **Manhattan, Community Board: 6.** SPECIAL PERMIT-73-03 & 73-36-To allow a Physical Cultural Establishment in a portion of an existing building's 11th and 12th floor.

77-06-A

96 Crabtree Avenue, Crabtree Avenue To Woodrow Road east of Turner Street., Block 7092, Lot 1, Borough of **Staten Island, Community Board: 3.** Appeal-Seeking BSA approval to continue development on blocks 7092 and 7105 in South Richmond, SI according to zoning regulations in effect in March of 1999 when foundation permits were issued. Development rights vested prior to a zoning change.

78-06-A

96 Crabtree Avenue, Crabtree Avenue to Woodrow Road east of Turner Street, Block 7105, Lot 555& 561, Borough of **Staten Island, Community Board: 3.** Appeal-Seeking BSA approval to continue development on blocks 7092 and 7105 in South Richmond, SI according to zoning regulations in effect in March of 1999 when foundation permits were issued. Development rights vested prior to a zoning change.

79-06-BZ

887 Bergen Street, North side of Bergen Street, 246 feet east of the intersection of Bergen Street and Classon Avenue., Block 1142, Lot 85, Borough of **Brooklyn, Community Board: 8.** Under 721-21-To permit a nine-unit multiple family dwelling.

80-06-BZ

318 East 73rd Street, East 73rd Street between 1st and 2nd Avenues., Block 1447, Lot 41, Borough of **Manhattan, Community Board: 8.** Under 72-21-To request permission to encroach onto rear yard required under Section 23-52 of the Zoning Resolution.

81-06-A

160 East 83rd Street, Between Third Avenue and Lexington Avenue, Block 1511, Lot 45, Borough of **Manhattan, Community Board: 8.** Appeal seeking to revoke permits and approvals which allows an enlargement to an existing dwelling which violates various provisions of the Zoning Resolution and Building code regarding required setbacks and building frontage.

82-06-BZ

172-12 Northern Boulevard, Between 172nd Street and Utopia Parkway, Block 5511, Lot 1, Borough of **Queens, Community Board: 7.** Under 72-21-to permit the re-development of an existing non-conforming eating and drinking establishment with accessory drive-thru in an R3-2

83-06-BZ

47-33 Fifth Street, North side of 5th Street, between 48th Avenue and 47th Road, Block 30, Lot 26, Borough of **Queens, Community Board: 2.** Under 72-21 to permit the conversion and enlargement of an existing four story warehouse structure in a M1-4/R6A (LIC) zoning 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

JUNE 13, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, June 13, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

APPEALS CALENDAR

413-50-BZII

APPLICANT – Eric Palatnik, P.C., for BP Products North America, owner.

SUBJECT – Application October 12, 2005 - pursuant to ZR 11-411 & 11-412 for an Extension of Term of a Gasoline Service Station-UG 16 (BP North America) for ten years which expired on November 18, 2005. This instant application is also for an Amendment to legalize modifications to the previously approved signage on site.

PREMISES AFFECTED – 691/703 East 149th Street, northwest corner of Jackson Avenue, Block 2623, Lot 140, Borough of The Bronx.

COMMUNITY BOARD #15BX

224-66-BZ

APPLICANT – Peter Hirshman, for Building Management Co., owner.

SUBJECT – September 23, 2005 - Extension of Term & Waiver for the re-establishment of transient parking use within the existing garage of a multiple dwelling which expired on June 14, 2001. The proposed term of this filing is for ten (10) years. The premise is located in an R8B zoning district.

PREMISES AFFECTED – 325-335 East 49th Street, aka 328-334 50th Street, northside of East 49th Street, 262'-4" west of First Avenue, Block 1342, Lots 12,13,15,39-41, 111, 139, Borough of Manhattan.

COMMUNITY BOARD #6M

71-93-BZ

APPLICANT – Paul F. Bonfilio, for Vincenzo Farruggio, owner.

SUBJECT – Application May 11, 2006 - Amendment to a previously granted Variance ZR72-21 to construct an additional single family residence on one zoning lot that has been sub-divided into two tax lots. The proposed application does not have the required 15' front yard and is contrary to ZR 23-45.

PREMISES AFFECTED – 153-11 Bayside Avenue, 193' west of 154th Street, Block 4835, Lot 27, Borough of Queens.

COMMUNITY BOARD #7Q

269-98-BZ

APPLICANT – Mothiur Rahman, for Mothiur Rahman, owner.

SUBJECT – Application April 12, 2006 -pursuant to ZR 72-01 for the Extension of Time to Complete Construction and to obtain a Certificate of Occupancy for the construction of a two story building for commercial use (Retail UG6) in a residential use district.

PREMISES AFFECTED – 70 East 184th Street, aka 2363 Morris Avenue, south side of East 184th Street, corner formed by the intersection of Morris Avenue, Block 3183, Lot 42, Borough of The Bronx.

COMMUNITY BOARD #5BX

182-04-BZ

APPLICANT – Stadtmauer Bailkin, LLP, for Chelsea Village Associates, owner; Harmic III, LLC, lessee.

SUBJECT – Application January 17, 2006 – Reopening for an amendment permit proposed eating and drinking establishment (comedy theater), Use Group 12, on a zoning lot, split between a C6-2A and R8B zoning district, of which a portion is located in the R8B district, is contrary to Z.R. §22-10.

PREMISES AFFECTED – 351/53 West 14th Street, north side, between Eighth and Ninth Avenues, Block 738, Lot 8, Borough of Manhattan.

COMMUNITY BOARD #4M

CALENDAR

JUNE 13, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, June 13, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

381-04-BZ

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

SUBJECT – Application December 2, 2004 - Variance pursuant to Z.R. Section 72-21 to permit the construction of a four-story building to contain 20 residential units with 10 parking spaces. The site is currently an undeveloped lot which is located in an M1-1 zoning district. The proposal is contrary to district use regulations pursuant to Z.R. Section 42-00.

PREMISES AFFECTED – 83 Bushwick Place a/k/a 225-227 Boerum Street, northeast corner of the intersection of Boerum Street and Bushwick Place, Block 3073, Lot 97, Borough of Brooklyn.

COMMUNITY BOARD #1BK

204-05-BZ

APPLICANT – Harold Weinberg, for Amalia Dweck, owner.

SUBJECT – August 26, 2005 - Pursuant to ZR §73-622, Special Permit for an enlargement of a two-family residence which increases the degree of non-compliance for floor area, open space, lot coverage and side yards is contrary to ZR§§23-141 and 23-461. The application also proposed an as-of-right change from a one-family dwelling to a two-family dwelling.

PREMISES AFFECTED – 2211 Avenue T, north side, 57' east of East 22nd Street, between East 22nd and East 23rd Streets, Block 7301, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #15BK

290-05-BZ

APPLICANT – Stuart A. Klein, for Yeshiva Imrei Chaim Viznitz, owner.

SUBJECT – Application September 19, 2005 and updated 4/19/06 - Variance pursuant to Z.R. Section 72-21 to permit a catering hall (Use Group 9) accessory to a synagogue and yeshiva (Use Groups 4 & 3). The site is located in an R5 zoning district.

PREMISES AFFECTED – 1824 53rd Street, south side, 127.95' east of the intersection of 53rd and 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #12BK

60-06-A

APPLICANT – Stuart A. Klein, for Yeshiva Imrei Chaim Viznitz, owner.

SUBJECT – Application April 5, 2006 - Request pursuant to Section 666 of the New York City Charter for a reversal of DOB's denial of a reconsideration request to allow a catering use as an accessory use to a synagogue and yeshiva in an R5 zoning district.

PREMISES AFFECTED – 1824 53rd Street, south side, 127.95' east of the intersection of 53rd and 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #12BK

311-05-BZ/310-05-A

APPLICANT – Joseph P. Morsellino, Esq., for Bernard F. Dowd, owner.

SUBJECT – Application October 19, 2005 - Special Permit pursuant to Z.R. Section 73-27 to legalize the existing second floor use in an existing funeral establishment. The site is located in a C4-2 zoning district. A case (310-05-A) was filed with the BZ case on 10/19/05 since the C of O lapsed for the prior A case (232-52-A).

PREMISES AFFECTED – 165-18/28 Hillside Avenue, Northeast corner Hillside Avenue and Merrick Boulevard, Block 9816, Lot 41, Borough of Queens.

COMMUNITY BOARD #12Q

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MAY 2, 2006
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Chin and Commissioner Collins.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, February 28, 2006, were approved as printed in the Bulletin of March 9, 2006, Volume 91, Nos. 9o & 10. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

360-49-BZ

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

SUBJECT – Application November 14, 2005 – Pursuant to Z.R.§72-21 for an extension of term of the previously granted variance permitting the use of the site as a gasoline service station with accessory uses which expired on February 25, 2005. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 69-05 Eliot Avenue, northern corner of Eliot Avenue and 69th Street, Block 2838, Lot 38, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and for an extension of the term of the previously granted variance, permitting a gasoline service station pursuant to ZR § 11-411; and

WHEREAS, a public hearing was held on this application on April 11, 2006, after due notice by publication in *The City Record*, and then to decision on May 2, 2006; and

WHEREAS, Community Board 5, Queens, recommends approval of this application, on the condition that the site remains free of graffiti; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the premises is a 10,000 sq. ft. site located on the northern corner of the intersection formed between Eliot Avenue and 69th Street; and

WHEREAS, the site is located within an R4 zoning district, and is improved upon with a gasoline service station;

and

WHEREAS, the Board has exercised jurisdiction over the subject site since September 13, 1949, when, under the subject calendar number, the Board granted permission to construct and maintain a gasoline service station; and

WHEREAS, subsequently, the grant has been amended and the term extended by the Board at various times, most recently on February 24, 1998, for a term of 10 years from the expiration of the prior grant, expiring on February 25, 2005; and

WHEREAS, at hearing, the Board asked the applicant to address the Community Board’s concerns regarding graffiti; and

WHEREAS, the applicant responded that the site is free of graffiti and submitted photographs supporting this assertion; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term for a previously granted variance; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* the resolution, as adopted on September 13, 1949, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the term for ten years from February 25, 2005, to expire on February 25, 2015, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received April 13, 2006’ –(6) sheets; and *on further condition*:

THAT the term of this grant shall expire on February 25, 2015;

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

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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. 402221966)

Adopted by the Board of Standards and Appeals, May 2, 2006.

540-53-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Marbridge Realty Co., Inc., owner.

SUBJECT – Application October 25, 2005 – Extension of Term/Waiver for an existing parking lot accessory to a commercial building. The premise is located in a C2-4 and R3-1 zoning district.

MINUTES

PREMISES AFFECTED – 87-17 111th Street, Block 9301, Lots 124, 125, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Procedure and a reopening to extend the term of the prior grant for a parking lot, which expired on June 1, 2005, pursuant to ZR § 11-411; and

WHEREAS, a public hearing was held on this application on April 4, 2006, after due notice by publication in *The City Record*, and then to decision on May 2, 2006; and

WHEREAS, Community Board 9, Queens, recommends approval of this application, on the condition that the applicant plant three trees on the block pursuant to Parks Department guidelines; and

WHEREAS, the subject 10,000 sq. ft. site is located on the east side of 111th Street, south of Jamaica Avenue, and is located primarily within an R3-1 zoning district but with a small corner of the site in an R6-A (C2-4) district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 1, 1960, when, under calendar number 540-53-BZ, Vol. II, the Board granted permission to construct a two-story extension and add an accessory parking lot to the existing building; and

WHEREAS, subsequently, the grant has been amended and the term extended by the Board at various times, most recently on January 9, 1996, for a term of 10 years from the expiration of the prior grant, expiring on June 1, 2005; and

WHEREAS, at hearing the Board questioned the applicant about providing street trees in front of the premises as per the Community Board’s request; and

WHEREAS, the applicant responded that due to conditions at the site, including curb cuts, it was unable to plant trees in accordance with Department of Parks and Recreation standards; and

WHEREAS, in light of this fact, the Board subsequently received a letter from the Community Board recommending approval of this application since the applicant agreed to plant three trees, not at the premises, but at other locations on the block; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term for a previously granted variance; and

WHEREAS, based upon the above, the Board finds it appropriate to grant the requested extension of time.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on June 1, 1960, so that as amended this

portion of the resolution shall read: “to permit an extension of term, for an additional period of ten years from the expiration of the prior grant, to expire on June 1, 2015; *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received April 19, 2006’–(1) sheet; and *on further condition*:

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

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

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

(DOB Application No. 402160264)

Adopted by the Board of Standards and Appeals, May 2, 2006.

357-72-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Permanent Mission of the Russian Federation to the U.N., owner.

SUBJECT – Application December 19, 2005 – Amendment to a previously granted Variance ZR 72-21 for a multiple dwelling and community facility complex to allow for the enclosure of an existing swimming pool and the enlargement of an accessory health and sports facility. The premise is located in an R-4 zoning district.

PREMISES AFFECTED – 355 West 255th Street, northwest corner of West 255th Street and Fieldston Road, Block 5846, 5848, Lots 1605, 1774, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this application is a request for a re-opening and an amendment to a previously granted variance; and

WHEREAS, a public hearing was held on this application on March 28, 2006, after due notice by publication in *The City Record*, laid over to continued hearings on April 25, 2006 and then to decision on May 2, 2006; and

WHEREAS, the subject site is located on the east side of West 255th Street, between Mosholu Avenue and Fieldston Road; and

WHEREAS, on July 18, 1972, the Board granted an application under ZR § 72-21, to permit, in an R4 zoning district, the development of the site with a multiple dwelling and community facility complex to house a foreign mission, that

MINUTES

encroached on the rear and side setbacks and had less than the required parking; an outdoor swimming pool was included in the plan; and

WHEREAS, subsequently, on July 3, 1973, the Board reopened and amended the application to extend the time to complete construction and to permit a revision of the previously approved plans; and

WHEREAS, on March 11, 1975, the Board again reopened and amended the application to allow minor changes in the building's configuration and a reduction in height; and

WHEREAS, the applicant now proposes to enclose the swimming pool, enlarge the sports facility, and enclose the existing walkway; and

WHEREAS, the enclosure of the pool and walkway and addition of the sports facility would increase the floor area by approximately 17,000 square feet; and

WHEREAS, the applicant represents that the subject proposal does not affect the rear and side setback, subjects of the prior variance, and is otherwise in compliance with all bulk regulations relating to floor area and lot coverage; and

WHEREAS, the applicant represents that since the additional floor area would be contained in a building that is accessory to the existing multiple dwelling, there is no new parking requirement; and

WHEREAS, the applicant states that since the proposal is merely to enclose the existing space, and the services will continue to be limited to existing users who are residents of the building on site, there will be no increased attendance or need for additional parking; and

WHEREAS, based upon the above, the Board finds it appropriate to approve the proposed amendment.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 18, 1972, so that as amended this portion of the resolution shall read: "to permit the enclosure of the existing swimming pool and walkway and the enlargement of the sports facility; *on condition* that all work shall substantially conform to drawings, filed with this application and marked 'Received April 10, 2006'-(8) sheets and 'April 25, 2006' (1) sheet; and *on further condition*:

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

THAT DOB shall confirm compliance with applicable floor area regulations;

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. 200925749)

Adopted by the Board of Standards and Appeals, May 2, 2006.

1180-80-BZ

APPLICANT – SFS Associates, for One Tiffany Place Condominium, owner.

SUBJECT – Application September 21, 2005 – Reopening for an amendment to the resolution to include superintendents' apartment in the cellar of the existing building.

PREMISES AFFECTED – 1 Tiffany Place, Block 320, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this application is a request for a re-opening and an amendment to a previously granted variance, to permit the construction of a superintendent's apartment in the cellar of the existing building; and

WHEREAS, a public hearing was held on this application on February 14, 2006 after due notice by publication in *The City Record*, laid over to continued hearings on April 11, 2006 and then to decision on May 2, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 6, Brooklyn recommended approval of this application; and

WHEREAS, the subject site is a 25,045 sq. ft. lot, with frontage on Tiffany Place, Kane Street, and Hicks Street; and

WHEREAS, on July 13, 1982, the Board granted an application under ZR § 72-21, to permit, in an M1-1 zoning district, the development of residential units in an existing manufacturing building at the site, plus the addition of one floor; and

WHEREAS, subsequently, the Board approved two amendments which allowed for an extension of time to complete construction and several design changes which resulted in a reduction of the total floor area; and

WHEREAS, the site has since been re-zoned to R6; and

WHEREAS, the applicant proposes to convert a recreation room in the cellar into a 1,324 sq. ft. superintendent's apartment, while relocating the recreation room to an adjacent space; and

WHEREAS, at hearing, the Board, asked the applicant if the apartment would comply with Multiple Dwelling Law § 34 concerning light and air; and

WHEREAS, the applicant represents that Multiple Dwelling Law § 34 does not apply to this building as it is classified under Article 7-B which provides for general residential occupancy of loft, commercial, or manufacturing buildings; and

WHEREAS, in order to meet applicable light and air

MINUTES

requirements, the applicant proposes to excavate and lower a portion of the open area in the rear of the building; and

WHEREAS, the applicant acknowledges that said excavation will eliminate one parking space that can be relocated to the south side of the building; and

WHEREAS, the applicant represents that the proposal would increase the residential FAR from 3.33 to 3.39; and

WHEREAS, the applicant further represents that the proposal would result in a minor increase in the non-complying open space ratio and room count; and

WHEREAS, the applicant submits that with this request, the total floor area and number of apartments is still within the parameters originally approved by the Board; and

WHEREAS, specifically, the Board notes that it approved, by amendment, two sets of design changes since the initial Board grant and that the earlier versions included either a full sixth floor or a fifth-floor mezzanine; and

WHEREAS, additionally, the Board notes that the plans subsequently approved by letter resulted in approximately 20,000 fewer square feet, and 5 fewer apartments, than what was originally approved; and

WHEREAS, because of the scope of the original grant, the Board observes that the proposed minor increase in floor area does not affect the prior findings that the building was compatible with the neighborhood character and that the relief granted was the minimum necessary; and

WHEREAS, additionally, the Board observes that a superintendent's apartment is required by law for this building; and

WHEREAS, based upon the above, the Board finds it appropriate to approve the proposed amendment.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 13, 1982, so that as amended this portion of the resolution shall read: "to permit the construction of a superintendent's apartment in the basement of the existing building; *on condition* that all work shall substantially conform to drawings filed with this application and marked 'Received February 7, 2006'-(1) sheet and 'May 1, 2006'-(2) sheets; and *on further condition*:

THAT the superintendent's apartment can only be occupied by the building's superintendent;

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

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

THAT the Department of Buildings shall review compliance with all applicable light and air requirements;

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 Alt. No. 947-80)

Adopted by the Board of Standards and Appeals, May 2, 2006.

705-81-BZ

APPLICANT – Agusta & Ross, for Fraydon Enterprises, owner; New York Health & Racquet Club, lessee.

SUBJECT – Application May 23, 2005 – Application for an Extension of Term/Amendment/Waiver for a Variance Z.R. 72-21 to continue the operation of a physical culture establishment and to permit the change in hours of operation. The premise is located in an R-10 zoning district.

PREMISES AFFECTED – 1433-37 York Avenue, northwest corner of York Avenue and East 76th Street, Block 1471, Lots 21, 22 and 23, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Mitchell Ross.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for (1) a waiver of the Rules of Practice and Procedure, (2) an extension of the term that expired on May 10, 2003, and (3) an amendment to extend the hours of a PCE previously granted a variance and to legalize interior layout changes to the approved plans; and

WHEREAS, a public hearing was held on this application on February 28, 2006, after due notice by publication in *The City Record*, laid over to April 11, 2006 and then to decision on May 2, 2006; and

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the subject premises is located at the northwest corner of York Avenue and East 76th Street; and

WHEREAS, on May 10, 1983, the Board granted a variance pursuant to ZR § 72-21, to permit, in a R10 zoning district, the expansion of an existing Physical Culture Establishment (PCE) in the cellar and the first floor onto the second floor of the existing seven-story mixed use building; and

WHEREAS, subsequently, the grant was re-opened and amended to modify the interior layout, increase the floor area, and to extend the term; and

WHEREAS, the instant application seeks to extend the hours of operation so as to open one hour earlier, at 6:00 a.m., daily; and

WHEREAS, the instant application also seeks to legalize certain layout reconfigurations, which do not increase the floor area; and

MINUTES

WHEREAS, lastly, the instant application seeks to extend the term of the variance for ten years; and

WHEREAS, the Board instructed the applicant to notify neighbors about the application and public hearing in order to determine if prior noise issues had been resolved to their satisfaction; and

WHEREAS, the applicant submitted evidence to the Board confirming that noise concerns had been addressed by an acoustical study and subsequent remediation; and

WHEREAS, the Board reviewed the evidence and notes that acoustical measures were put in place; and

WHEREAS, at hearing, the Board heard testimony from neighbors that the noise issues were resolved; and

WHEREAS, accordingly, the Board finds that a ten-year extension and the proposed change in hours and internal configurations are appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated May 10, 1983, so that as amended this portion of the resolution shall read: "to grant an extension of the term for a term of ten years from the expiration of the last grant, to extend the hours of operation by one hour, daily, and to permit internal layout reconfiguration; *on condition* that the use and operation of the PCE shall substantially conform to drawings as filed with this application, marked 'Received April 3, 2006'-(6) sheets and 'April 19, 2006'-(1) sheet; and *on further condition*:

THAT this grant shall be limited to a term of ten years from May 10, 2003, expiring May 10, 2013;

THAT the hours of operation shall be 6:00 a.m. to 10:00 p.m., daily;

THAT the above conditions shall appear 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; 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, May 2, 2006.

636-54-BZ, Vol. II

APPLICANT – Walter T. Gorman, P.E., for Stephen & Jeanne Tamor (Trustees); Motiva Enterprises, lessee.

SUBJECT – Application February 22, 2006 - Extension of Time/Waiver to obtain a Certificate of Occupancy of a gasoline service station (Shell Station) for fifty-four (54) months from the expiration date of January 8, 2003. The premise is located in a C1-2 in R-5 zoning district.

PREMISES AFFECTED – 9612/24 Seaview Avenue, southwest corner of Rockaway Parkway, Block 8328, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: John Ronan.

For Administration: Anthony Scaduto, Fire Department.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 16, 2006, at 10 A.M., for decision, hearing closed.

39-66-BZ

APPLICANT – Sheldon Lobel, P.C., for Andrea Woodner, owner.

SUBJECT – Application March 28, 2006 - Extension of Time/Waiver to obtain a Certificate of Occupancy, which expired in January 6, 2006, for transient parking of the unused and surplus tenants spaces in the accessory garage of a multiple dwelling building. The premise is located in a R6 zoning district.

PREMISES AFFECTED – 43-70 Kissena Boulevard, Block 5137, Lot 102, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Josh Rinesmith .

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 16, 2006, 10 A.M., for decision, hearing closed.

337-79-BZ, Vol. II

APPLICANT – Moshe M. Friedman, P.E., for Dr. Martin S. Bernstein, owner.

SUBJECT – Application January 23, 2006 – Extension of Term/Waiver for the conversion of the first story of an existing two (2) story residential building into medical offices, located in an R2 zoning district.

PREMISES AFFECTED – 2107 Avenue N, north side of Avenue N, 40' east of East 21st Street, Block 7657, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Moshe M. Friedman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 16,

MINUTES

2006, at 10 A.M., for decision, hearing closed.

111-01-BZ

APPLICANT – Eric Palatnik, P.C., for George Marinello, owner; Wendy’s Restaurant, lessee.

SUBJECT - Application January 12, 2006 – Pursuant to ZR §§72-21 and 72-22 for the extension of term for ten years for an accessory drive thru facility at an eating and drinking establishment (Wendy’s) which one-year term expired February 1, 2006. An amendment is also proposed to extend the hours of operation of the accessory drive-thru facility to operate until 4 a.m. daily. The premise is located in a C1-2/R-5 zoning district.

PREMISES AFFECTED – 9001 Ditmas Avenue, between 91st Street and Remsen Avenue, Block 8108, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to June 6, 2006, at 10 A.M., for continued hearing.

359-02-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Wegweiser & Ehrlich, LLC, owner; Montessori School of Manhattan, LLC, lessee.

SUBJECT – Application January 17, 2006 – Reopening for an Amendment to a previous variance ZR 72-21 that allowed the operation of a school on the first floor and cellar in a six story building; a subsequent amendment in 2005 was to relocate the operation of the school from the cellar to the second floor and to maintain partial first floor operation. The current proposed amendment is to allow for the additional expansion of the school to the third floor of the building. The premise is located in an M1-5(TMU) zoning district.

PREMISES AFFECTED – 53-55 Beach Street, north side of Beach Street, west of Collister Street, Block 214, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Fredrick A. Becker, Eric Wegweiser.

For Administration: Anthony Scaduto, Fire Department.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 9, 2006, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

428-05-BZY thru 431-05-BZY

APPLICANT – Sheldon Lobel, P.C., for Islandview Homes Development Corp., owner.

SUBJECT – Application December 28, 2005 – Proposed extension of time to renew building permits and complete construction of a minor development pursuant to Z.R. 11-332. Current R3-X zoning district.

PREMISES AFFECTED – 475, 473, 471, 470 Father Capodanno Boulevard, located 91.90’ west of Cross Streets, Father Capodanno Boulevard and McLaughlin Street, Block 3500, Tentative Lot Nos. 30, 31, 32, 33. Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application under ZR § 11-332, to permit an extension of time for the completion of construction of, and obtainment of certificates of occupancy for, four townhouses currently under construction at the subject premises; and

WHEREAS, the Board notes that while separate applications were filed for each permit for each of the townhouses, in the interest of convenience, it heard the cases together and the record is the same for all the applications; and

WHEREAS, a public hearing was held on this application on April 11, 2006 after due notice by publication in *The City Record*, and then to decision on May 2, 2006; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan and Commissioner Collins; and

WHEREAS, the subject premises is a 14,641 square foot lot with frontage on Father Capodanno Boulevard, 92 feet from the intersection at McLaughlin Street; and

WHEREAS, the premises are currently located within an R3X zoning district, but were formerly located within an R3-2 zoning district; and

WHEREAS, the development complies with the former R3-2 zoning district parameters as to floor area, building height, and lot coverage; and

WHEREAS, however, on December 3, 2003 (hereinafter, the “Enactment Date”), the City Council voted to adopt the rezoning of the area, which rezoned the site to R3X; and

WHEREAS, as of that date, foundation construction had been completed, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows the Department of Buildings (DOB) to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are allowed for completion of construction and to obtain certificates of occupancy; and

WHEREAS, accordingly, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-30 et seq., which sets forth the

MINUTES

regulations that apply to a reinstatement of a permit that lapses due to a zoning change; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as that proposed, which involves the construction of two or more buildings on contiguous zoning lots, as a “minor development”; and

WHEREAS, for “minor development,” an extension of time to complete construction may be granted by the Board pursuant to ZR § 11-332; and

WHEREAS, ZR § 11-332 reads, in pertinent part: “In the event that construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefore within two years after the effective dater of any applicable amendment . . . the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew such building permit for two terms of not more than two years each for a minor development . . . In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit.”; and

WHEREAS, the applicant noted that ZR § 11-332 requires only that there be substantial completion and substantial expenditures subsequent to the issuance of building permits and that the Board has measured this completion by looking at time spent, complexity of work completed, amount of work completed, and expenditures; and

WHEREAS, as a threshold issue, the Board must determine that proper permits were issued, since ZR § 11-31(a) requires: “For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes “complete plans and specifications” as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met.”; and

WHEREAS, the applicant represents that all of the relevant DOB permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that the following permits for the proposed development were lawfully issued to the owner by DOB, prior to the Enactment Date: Permit Nos. 500519325-01-NB, 500519316-01-NB, 500519307-01-NB, and 500519290-01-NB (hereinafter, the “New Building Permits”); 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 have been timely renewed; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

WHEREAS, the Board also observes that the work to be measured under ZR § 11-332 must be performed after the issuance of the permit; and

WHEREAS, similarly, the expenditures to be assessed under ZR § 11-332 are those incurred after the permit is issued; and

WHEREAS, accordingly, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant; and

WHEREAS, in written statements and testimony, the applicant represents that, since the issuance of the New Building Permits, substantial construction has been completed which includes completed foundations; and

WHEREAS, in addition, the applicant submits that due to the site’s proximity to wetlands, additional work was required to secure the foundations including the installation of more than 75 helical piles and the construction of a gabion wall around the perimeter of the site as required by the New York State Department of Environmental Conservation; and

WHEREAS, the applicant asserts that this significant subsurface work represents considerable construction for the small development of two-story plus basement homes; and

WHEREAS, further, the applicant asserts that the level of complexity of the work completed is much greater than that of the work remaining which includes framing, mechanicals, and other interior work; and

WHEREAS, in support of the contention that substantial work has been completed, the applicant has submitted the following evidence: photographs of the site showing the amount of work completed, including the gabion wall; building plans and foundation survey; and copies of contracts, work orders, invoices, and cancelled checks; and

WHEREAS, the Board has reviewed all documentation and agrees that it establishes that the afore-mentioned work was completed subsequent to the issuance of the valid New Building Permits which, as per the text of ZR § 11-332, is the governing standard; and

WHEREAS, nonetheless, at hearing, the Board asked the applicant how much work was completed since the Enactment Date; and

WHEREAS, the applicant responded that additional work was performed including the installation of sub slab plumbing and drains and the basement slabs; and

WHEREAS, as to time spent and complexity of the work completed, the applicant represents that 38 percent of the total time required for completion has been spent, and that this includes the most complex construction methods of the development; and

WHEREAS, the applicant notes that the work completed includes the basement which amounts to a substantial portion of the 2-story plus basement buildings; and

MINUTES

WHEREAS, as to the work remaining to be completed, the applicant represents that the superstructure would take approximately two months and that it, and other remaining work, represents more conventional forms of construction; and

WHEREAS, as to expenditures, the applicant represents that the total hard costs are \$793,712.54 and the total hard costs already incurred are \$402,512.54, or 51 percent; in support of this claim, the applicant has submitted invoices and cancelled checks; and

WHEREAS, the applicant contends that this percentage constitutes a substantial expenditure sufficient to satisfy the finding in ZR § 11-332; and

WHEREAS, the Board notes that the actual completion of physical construction is substantial considered in light of the amount of sub-surface work required due to soil conditions; and

WHEREAS, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since the issuance of the New Building Permits; and

WHEREAS, therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR § 11-332, and that the owner is entitled to the requested reinstatement of the New Building Permits, and all other permits necessary to complete the proposed development; and

WHEREAS, accordingly, the Board, through this resolution, grants the owner of the site the requested two-year extension for completion of construction that is allowed under ZR § 11-332.

Therefore it is Resolved that this application made pursuant to ZR §11-332 to renew New Building Permit Nos. 500519325-01-NB, 500519316-01-NB, 500519307-01-NB, and 500519290-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed townhouse developments for one term of two years from the date of this resolution, to expire on May 2, 2008.

Adopted by the Board of Standards and Appeals, May 2, 2006.

355-05-BZY

APPLICANT – Rothkrug, Rothkrug, Weinberg, Spector, LLP for Adda 422 Prospect Avenue, LLC, owner.

SUBJECT – Application December 14, 2005 – Proposed extension of time to complete construction of a minor development pursuant to Z.R. 11-331 for a multi family 3 story residential building under the prior Zoning R5. New Zoning District is R5B as of November 16, 2005.

PREMISES AFFECTED – 422 Prospect Avenue, Brooklyn, Prospect Avenue, west of 8th Avenue, Block 869, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to June 6, 2006, at 10 A.M., for continued hearing.

360-05-BZY

APPLICANT – Greenberg & Traurig, LLP for 400 15th Street, LLC, owner.

SUBJECT – Application December 14, 2005 – Proposed extension of time to complete construction of a minor development pursuant to Z.R. 11-331 for a multi family 3 story residential building under the prior Zoning R5. New Zoning District is R5B as of November 16, 2005.

PREMISES AFFECTED – 400 15th Street, Brooklyn, south side of 15th Street, 205' feet 5" west of intersection of 8th Avenue and 15th Street, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 16, 2006, at 10 A.M., for continued hearing.

362-05-BZY

APPLICANT – Greenberg & Traurig, LLP for 6 on 6th LLC, owner.

SUBJECT – Application December 16, 2005 – Proposed extension of time to complete construction of a minor development pursuant to Z.R. 11-331 for a six story residential building under the prior Zoning R6. New Zoning District is R6B as of November 16, 2005.

PREMISES AFFECTED – 639 Sixth Avenue, Brooklyn, east side of Sixth Avenue 128'2" north of intersection of 18th Street and Sixth Avenue, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 16, 2006, at 10 A.M., for continued hearing.

367-05-A

APPLICANT – Greenberg & Traurig, LLP for 6 on 6th Avenue, LLC, owner.

SUBJECT – Application December 22, 2005 – An appeal seeking a determination that the owner of said premises has acquired a common law vested rights to continue development commenced under the prior Zoning R6. New Zoning District is R6B as of November 16, 2005.

PREMISES AFFECTED – 639 Sixth Avenue, east side of Sixth Avenue, 128'-2" north of intersection of 18th Street and Sixth Avenue, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 16, 2006, at 10 A.M., for continued hearing.

MINUTES

368-05-A

APPLICANT – Greenberg & Traurig, LLP for 400 15th Street, LLC, owner.

SUBJECT – Application December 22, 2005 – An appeal seeking a determination that the owner of said premises has acquired a common law vested rights to continue development commenced under the prior Zoning R6. New Zoning District is R6B as of November 16, 2005.

PREMISES AFFECTED – 400 15th Street, south side of 15th Street, 205'-5" west of intersection of 8th Avenue and 15th Street, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 16, 2006, at 10 A.M., for continued hearing.

400-05-BZY/401-05-BZY

APPLICANT – John Patrick Curran of Tannebaum Helpert et al for Philip Caccese, owner.

SUBJECT – Application December 28, 2005 – Proposed extension of time to renew building permits and complete construction of a development pursuant to Z.R. 11-332. Prior R3-X Zoning District. Current R3-1 Zoning District.

PREMISES AFFECTED – 3202 & 3204 Morley Avenue, Block 4313, Lots 2 & 4, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES – None.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 16, 2006, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director.

Adjourned: A.M.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, MAY 2, 2006
1:30 P.M.**

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Chin and Commissioner Collins.

ZONING CALENDAR

72-05-BZ

APPLICANT – Harold Weinberg, P.E., for Cong. Shomlou by Rabbi Marton Ehrenreich, owner.

SUBJECT – Application March 23, 2005 – Under Z.R. §72-21 to permit the proposed erection of a synagogue and yeshiva, with accessory residences, Use Groups 2 and 4, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, rear yard and open space ratio, is contrary to Z.R. §§24-11, 23-142, 24-36 and 24-12.

PREMISES AFFECTED – 245 Hooper Street, north side, 205' east of Marcy Avenue, between Marcy and Harrison Avenues, Block 2201, Lot 61, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 17, 2006, acting on Department of Buildings Application No. 3301743344, reads, in pertinent part:

“[The proposed synagogue and yeshiva, with accessory quarters for a rabbi] proposes to provide a rear yard below 30’ and is contrary to Section 24-36 ZR [and] creates non-compliance with respect to lot coverage and is contrary to Sections 24-11 & 24-12 of the Zoning Resolution [and] contrary to Section 24-651, a minimum 20’ rear yard is required to ventilate required windows”; and

WHEREAS, this is application for a variance under ZR § 72-21, to permit, on a site within an R6 zoning district, a proposed four story plus cellar synagogue and yeshiva, with an accessory dwelling unit for a rabbi, which does not comply with the applicable rear yard, minimum distance between windows and lot lines, and lot coverage provisions for community facilities, contrary to ZR §§ 24-36, 24-561, 24-11 and 24-12; and

WHEREAS, this application is being prosecuted on behalf of the Congregation Somlou, a non-profit religious entity (hereinafter, the “Synagogue”); and

WHEREAS, the applicant proposes to construct a 45 ft. high building, with a community facility Floor Area Ratio (FAR) of 3.44 (4.8 FAR is allowed), with Use Group (“UG”) 4 synagogue space on the first and second floors and in the cellar, a UG 4 accessory rabbi’s apartment on the third floor, and a UG 3 yeshiva on the fourth floor, all of which conforms and complies in the subject zoning district; and

WHEREAS, however, at certain heights, the rear yard of the proposed building will not comply with the required 30 ft. depth requirement; likewise, the proposed lot coverage is 89.1%, which exceeds the maximum permitted lot coverage of 65%; and

WHEREAS, additionally, because the rear yard is deficient at certain heights, non-compliance as to the minimum required distance between windows and rear lot line (20 ft. minimum) is also created; and

WHEREAS, the applicant initially proposed to construct a five-story, 4.1 FAR synagogue and yeshiva building, with eight UG 2 residences, which would have required residential FAR, street wall height, and setback relief in addition to lot coverage and rear yard relief; and

WHEREAS, the Board expressed concern about this proposal, noting that there was no justification for waivers such as FAR and street wall height that arose solely because the application included market rate UG 2 residences; and

WHEREAS, the applicant then reduced the amount of residential units to four, and attempted to convince the Board that the residences could be construed as a UG 3 monastery use; and

WHEREAS, the Board asked the applicant to confirm this purported classification with the Department of Buildings, but the applicant was unable to provide the Board with satisfactory confirmation that DOB would accept such a Use Group designation for the proposed units; and

WHEREAS, the Board also does not find such a classification warranted; and

WHEREAS, thus, the Board encouraged the applicant to propose a reduced scale building, that would not require relief beyond rear yard and lot coverage, and which would include a modest amount of floor area devoted to a single UG 4 accessory unit for a rabbi; and

WHEREAS, the Board also asked the applicant to redesign the proposed building, eliminating an unnecessary courtyard within the building; and

WHEREAS, the applicant subsequently submitted the proposed version of the application, which the Board finds acceptable; and

WHEREAS, a public hearing was held on this application on November 1, 2005, after due notice by publication in *The City Record*, with continued hearings on December 13, 2005, January 31, 2006, and March 28, 2006, and then to decision on May 2, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin, and Commissioner Collins; and

MINUTES

WHEREAS, Community Board 1, Brooklyn, recommends disapproval of the original version of the application, on the basis that the applicant failed to establish unique hardship or institutional need; and

WHEREAS, the subject premises is located on the north side of Hooper Street, 205 feet east of Marcy Avenue, and is a vacant and irregular 3,605 sq. ft. interior lot, with 40 ft. of frontage; and

WHEREAS, the applicant states that the site as currently configured is the result of a lot merger between two 20 ft. wide lots, one of which was approximately 80 ft. deep and one of which was approximately 100 ft. deep; as a consequence of the merger, the site's rear lot line is irregular; and

WHEREAS, the applicant states that the approximately 80 ft. deep lot was previously occupied by a building, which was demolished in the 1990s due to its unsafe condition; and

WHEREAS, the applicant states that the lot merger was consummated in order to provide the Synagogue with sufficient lot width to meet its programmatic needs; and

WHEREAS, the configuration of the building will be as follows: the first floor will be fully built out to the rear lot line; the second floor will be built to a depth of 80 ft. (an approximately 10 ft. and approximately 30 ft. rear yard waiver is required); and the third and fourth floors will be built to a depth of 70 ft. (an approximately 10 ft. rear yard waiver is required); and

WHEREAS, the applicant states that the following are the programmatic needs of the Synagogue: (1) increased space to accommodate worship spaces, including separate spaces for men and women, and special events; (2) sufficient classroom and accessory space for the yeshiva; and (3) a rabbi's apartment with sufficient space for meetings and consultations; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable regulations: (1) the site is irregular in depth, with one portion of the site extending 80 ft. from the front lot line, and one portion extending 100 ft. from the front lot line; and (2) with the application of the thirty ft. rear yard requirement, the irregular depth would create a building with an irregular floor plate (50 ft. for a 20 ft. width, and then 70 ft. for another 20 ft. in width); and

WHEREAS, the applicant claims that the irregularity and the resulting floor plates compromises the ability of the Synagogue to develop the site with an efficient building that would accommodate the stated programmatic needs; and

WHEREAS, the applicant argues that the requested rear yard and window ventilation waivers would enable the Synagogue to develop the site with a building with a uniform rear wall line at a depth of 70 ft.; and

WHEREAS, the applicant states that in addition to facilitating a uniform floor plate that could better accommodate the programmatic needs, the waivers also allow the Synagogue to avoid the increased construction costs that would arise from compliance with the rear yard provision; and

WHEREAS, the Board notes that the lot coverage waiver

is the result of the rear yard waiver, which allows an increased building footprint over the site in excess of what is permitted; and

WHEREAS, the Board observes that unlike the earlier proposals, the specific waivers requested in the current version have a nexus to the lot's unusual configuration and the needs of the Synagogue; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate and in conjunction with the programmatic needs of the Synagogue, create 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 Synagogue is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant states that the rear yard waivers will not affect the neighbor to the rear because that site has an approximately 100 ft. rear yard; and

WHEREAS, the applicant also states that the part of the building that will be constructed within the required rear yard will not be visible from the street; and

WHEREAS, the Board observes that aside from the rear yard waiver and related lot coverage waiver, the proposed bulk of the building and the uses therein are as of right; and

WHEREAS, the Board further observes that the Synagogue occupies the first two floors of the building, and that community facilities are allowed to build into the rear yard to height of 23 ft. so long as there is only one story; and

WHEREAS, since the proposed building will be 25 ft. high at the roof of the second floor, the rear yard waivers as to the second and third floors do not represent a significant deviation from a bulk form permitted as of right; 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 lot merger does not represent a self-created hardship because the building on the 80 ft. deep lot was in an unsafe condition, and that even if the lots had not been merged, no development that would have met the programmatic needs of the Synagogue could have occurred on either of the two pre-existing narrow lots; and

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

WHEREAS, after accepting guidance from the Board as to the design of the building, the uses therein, and the necessary waivers, the applicant amended the proposal to the current

MINUTES

version, which the Board finds to be the minimum necessary to afford the Synagogue the relief needed to meet its programmatic needs; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05BSA109K, dated August 7, 2005; 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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R6 zoning district, a proposed four story plus cellar synagogue and yeshiva, with an accessory dwelling unit for a rabbi, which does not comply with the applicable rear yard and lot coverage provisions for community facilities, contrary to ZR §§ 24-36, 24-561, 24-11 and 24-12, *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 25, 2006" -(4) sheets; and "Received March 31, 2006" -(1) sheet and *on further condition*:

THAT the third floor rabbi's apartment shall only be occupied by a rabbi of the congregation occupying this building;

THAT any change in ownership, control or ownership of the building shall require the prior approval of the Board;

THAT the third floor rabbi's apartment shall be the only

space within the building with sleeping/living accommodations;

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

THAT the following shall be the parameters of the proposed building: four stories plus a cellar, a community facility and total FAR of 3.44; lot coverage of 89.1 percent; a street wall and total height of 45 ft; and rear yards as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, May 2, 2006.

163-05-BZ

APPLICANT – Harold Weinberg, for Aaron (Ari) Presser, owner.

SUBJECT – Application July 19, 2005 – Special Permit – pursuant to ZR §73-622 for the enlargement of single family home which seeks to vary ZR §23-141 for the increase in floor area and open space ratio, ZR §23-47 for less than the minimum 30' rear yard required and ZR §23-461 for less than the required side yard. The premise is located in an R2 zoning district.

PREMISES AFFECTED – 1134 28th Street, west side, 260' south of Avenue K, Block 7627, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 14, 2005, acting on Department of Buildings Application No. 301973112, reads, in pertinent part:

1. Increases the degree of non-compliance with respect to floor area ratio . . . contrary to Section 23-141 of the Zoning Resolution.
2. Increases the degree of non-compliance with respect to the open space ratio . . . contrary to Section 23-141 of the Zoning Resolution.
3. Reduces the rear yard below 30 ft. and is contrary to Section 23-47 of the Zoning

MINUTES

Resolution.

4. Increase the degree of non-compliance with respect to side yards and is contrary to Section 23-461 of the Zoning Resolution.”; 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 dwelling, which does not comply with the zoning requirements for Floor Area Ratio (FAR), Open Space Ratio (OSR), and rear and side yards, contrary to ZR §§ 23-141, 23-47 and 23-461; and

WHEREAS, a public hearing was held on this application on March 28, 2006, after due notice by publication in *The City Record*, and then to decision on May 2, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

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

WHEREAS, the subject lot is located on the west side of East 28th Street, 260 ft. south of Avenue K; and

WHEREAS, the subject lot has a total lot area of 2,666 sq. ft.; and

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

WHEREAS, the applicant proposed to increase the floor area from the existing 1,884 sq. ft. (0.71 FAR) to 2,388.6 sq. ft. (0.89 FAR); the maximum floor area permitted is 1,334 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement decreases the OSR from 86.2 percent to 60.1 percent; the minimum required OSR is 150 percent; and

WHEREAS, the proposed enlargement reduces the size of the rear yard from 31 ft. to 20 ft.; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20’-0” of the rear lot line; and

WHEREAS, the widths of the one complying side yard of 6’-9” and the one non-complying side yard of 2’-2” will be maintained, but both yards will be extended through the straight-line enlargement into the rear yard; and

WHEREAS, at hearing, the Board suggested to the applicant that the proposed parking space was inaccessible and should be removed from the plan; the applicant subsequently modified the plans, showing removal of the parking space; and

WHEREAS, the Board finds that the proposed enlargement at the rear of the building neither alters the essential character of the surrounding neighborhood, nor impairs the future use and development of the surrounding area; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be

made under ZR §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio, Open Space Ratio, and rear and side yards, contrary to ZR §§ 23-141, 23-47 and 23-461; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “February 27, 2006”-(7) sheets and “May 1, 2006”-(3) sheets; and *on further condition*:

THAT the total FAR on the premises shall not exceed 0.89;

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 objections(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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 2, 2006.

289-05-BZ

APPLICANT – Eric Palatnik, P.C., for Tabernacle of Praise, owner.

SUBJECT – Application September 19, 2005 – Under Z.R. §73-50 – to waive Z.R. §33-292 – waiving the require 30 foot open area at the rear of premises.

PREMISES AFFECTED – 1106-1108 Utica Avenue, between Beverly and Clarendon Roads, Block 4760, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

MINUTES

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 10, 2006, acting on Department of Buildings Application No. 301441483 reads, in pertinent part:

“Amendment filed to obtain approval to expand the entire building footprint to occupy the site which is contrary to ZR Section 33-292, and this requires [a] special permit pursuant to Section 73-50 . . . another special permit is sought pursuant to Section 73-431 with regards to the parking requirement. This is contrary to Section 36-21.”; and

WHEREAS a public hearing was held on this application on February 28, 2006 after due notice by publication in *The City Record*, with a continued hearing on April 4, 2006, and then to decision on May 2, 2006; and

WHEREAS, this application is brought on behalf of Tabernacle of Praise (hereinafter, the “Church”), a not-for-profit entity; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan and Commissioner Collins; and

WHEREAS, Community Board 17, Brooklyn recommended approval of this application; and

WHEREAS, this is an application under ZR §§ 73-03, 73-431, and 73-50, to permit on a lot in a C8-1 zoning district abutting an R4 zoning district, the proposed construction of a church with an accessory banquet hall, without both the required rear yard setback from the district boundary and the required number of parking spaces, contrary to ZR §§ 33-292 and 36-21; and

WHEREAS, the subject site is a 16,000 sq. ft. lot, situated on the western side of Utica Avenue between Beverly and Clarendon Roads; and

WHEREAS, the subject site is located entirely within a C8-1 zoning district but the subject block is divided along its length by a district boundary, and an R4 zoning district abuts the rear of the site; and

WHEREAS, the site was formerly improved upon with a commercial building containing 8,707 sq. ft. of floor area, which was demolished in anticipation of the proposed development; and

WHEREAS, the proposed church is two full stories, with a partial third floor, as well as a cellar where a banquet hall, storage, and activity rooms will be located; and

WHEREAS, the total community facility floor area is 24,380 sq. ft.; and

WHEREAS, the proposed building will have a complying wall height of 30 feet, a height of 44 feet for the partial third floor, and a complying community facility FAR of 1.56 (2.40 is the maximum permitted); and

WHEREAS, however, the building will not have a setback from the district boundary line (30 feet is required) and will only provide 67 offsite parking spaces (82 onsite are required); and

WHEREAS, specifically, as to the setback issue, ZR § 33-292 requires that an open area not higher than curb level

and at least 30 feet in depth be provided at the rear of the site, within the commercial zoning district, and up to the district boundary; and

WHEREAS, pursuant to ZR § 73-50, the Board may grant a waiver of rear yard requirements set forth in ZR § 33-292 in appropriate cases; and

WHEREAS, the applicant represents that the subject special permit is necessary to ensure the viability of the project, meet the expanded space requirements for the church, and provide the minimum floor space necessary to effectively conduct programming and services; and

WHEREAS, the applicant asserts that strict compliance with ZR § 33-292 would result in a main sanctuary that would be 30 percent smaller than that proposed, which could not meet the growing congregation’s space needs; and

WHEREAS, at hearing, the Board asked the applicant to examine the effect of providing a ten-foot setback from the district boundary line; and

WHEREAS, the applicant responded that the provision of a ten-foot setback would result in the loss of 158 of the proposed 1230 seats, or space for approximately 13 percent of the congregation; and

WHEREAS, following the Board’s suggestion, the applicant revised the building plans to provide a ten-foot rear setback at a height of 29 feet, 5 inches, for the partial third floor; and

WHEREAS, locating the setback at this height avoids the loss of seats; and

WHEREAS, the Board notes that as a result of this rear setback, the building’s encroachment into the 30-foot rear yard is for 30 feet at the full first and second stories and a small portion of the third story, and 20 feet for the majority of the third floor, or that portion above the height of 29 feet 5 inches; and

WHEREAS, the Board also notes: (1) that church use is allowed in residential districts and that if this church were in an R4 zoning district, it would have been able to extend the first-story of the building into the rear yard for 23 feet, and (2) the previous commercial building on the subject site extended into the rear yard prior to its recent demolition; and

WHEREAS, based upon the above, the Board finds that the rear yard waiver will not have an adverse affect on the surrounding area; and

WHEREAS, as to the parking, ZR § 36-21 requires that one parking space be provided for every 15 persons of the rated capacity for the “facility’s largest room of assembly”; and

WHEREAS, the largest room of assembly has a capacity of 1,230 people, thus, 82 parking spaces are required; and

WHEREAS, pursuant to ZR § 73-431, the Board may grant a waiver of parking requirements for houses of worship upon determining that (1) it will be operated or utilized in such a manner as to reduce demand for onsite parking and (2) such reduction is commensurate with the reduced demand for onsite parking; and

WHEREAS, in reaching this determination, the Board may consider factors such as: the size of the congregation,

MINUTES

the frequency and time of worship services and other events, and the proximity of public transportation; and

WHEREAS, the applicant has submitted evidence that the Church has purchased 1117 Utica Avenue (Block 4761, Lot 58) which is situated immediately across the street from the site and which can accommodate 27 attended parking spaces; and

WHEREAS, additionally, the Church has entered into a contract with the owner of 1124-28 Utica Avenue (Block 4760, Lot 24) to lease 40 attended parking spaces during Sunday church services; and

WHEREAS, in addition to the parking plan, the applicant submitted evidence that there are many available parking spaces on the street on Sundays; and

WHEREAS, the applicant asserts that the large majority of the Church's congregants live within the surrounding neighborhood, with 87 percent within a three-quarters of a mile, and that most will walk or take public transportation to the Church; and

WHEREAS, the applicant also identified four bus lines and two subway lines in reasonable proximity to the site; and

WHEREAS, the Board has reviewed the parking plan and evidence of on-street parking, and agrees that the Church's ownership of 27 parking spaces and its contract to lease 40 others for Sunday use, along with the availability of on-street parking and public transportation, addresses the Church's parking needs; and

WHEREAS, the Board also finds that the demand for on-site parking is mitigated by the close proximity of the residences of the majority of the congregants; and

WHEREAS, based upon the above, the Board finds that the parking waiver will not have an adverse affect on the surrounding area; and

WHEREAS, the Board has determined that the disadvantages to the community at large are outweighed by the advantages derived from the special permits and that the adverse effect, if any, will be minimized by appropriate conditions; 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 findings required to be made under ZR §§ 73-03, 73-431, and 73-50.

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA018K, dated December 27, 2005; 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

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 the required findings to grant special permits pursuant to ZR §§ 73-03, 73-431, and 73-50, to allow, on a lot in a C8-1 zoning district abutting an R4 zoning district, the proposed construction of a church with an accessory banquet hall, without the required rear yard setback from the district boundary and the required number of parking spaces, contrary to ZR §§ 33-292 and 36-21, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received May 1, 2006" – (1) sheet, "Received April 28, 2006" – (5) sheets, "Received April 17, 2006" – (1) sheet, "Received December 29, 2005" – (5) sheets and *on further condition*:

THAT there shall be no change in ownership, operator or control of the site without the prior consent of the Board;

THAT 27 accessory parking spaces for the church shall be located at 1117 Utica Avenue (Block 4761, Lot 58);

THAT there shall be no commercial parking at 1117 Utica Avenue;

THAT the church shall obtain and maintain an operative lease with the owner of 1124-28 Utica Avenue (Block 4760, Lot 24) for the use of 40 accessory parking spaces on Sundays;

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

THAT the church shall execute and record a restrictive declaration limiting the use of 1117 Utica Avenue to accessory parking for the church;

THAT that said restrictive declaration must be executed and recorded and submitted to the Department of Buildings for review and approval prior to issuance of any building permit for the proposed construction;

THAT the lease with the owner of 1124-28 Utica Avenue shall be submitted to the Department of Buildings for review and approval prior to the issuance of any certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

MINUTES

jurisdiction objection(s) only;

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

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

Adopted by the Board of Standards and Appeals, May 2, 2006.

293-05-BZ

APPLICANT – Sheldon Lobel, P.C., for 342 Realty, LLC, owner.

SUBJECT – Application September 29, 2005 – This application is filed pursuant to Z.R. §73-44 to request a Special Permit to allow a reduction of required parking for an as-of-right commercial building located within a C8-1 zoning district.

PREMISES AFFECTED – 8751 18th Avenue, between 18th Avenue and Bay 19th Street approximately 100 feet East of Bath Avenue, Block 6403, Lot 6, Borough of Brooklyn

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated September 14, 2005, acting on Department of Buildings Application No. 302003506, reads:

“Proposed reduction of required accessory parking spaces for proposed office building at the premises requires a special permit from the New York City Board of Standards and Appeals pursuant to Section 73-44 of the Zoning Resolution”; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within a C8-1 zoning district, a reduction in the required number of accessory parking spaces for a proposed Use Group 6 office building from 36 to 18, contrary to Z.R. § 36-21; and

WHEREAS, a public hearing was held on this application on April 11, 2006, after due notice by publication in *The City Record*, and then to closure and decision on May 2, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins; and

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

WHEREAS, the subject lot is located on 18th Avenue,

approximately 100 ft. east of Bath Avenue, and has a lot area of 12,005 sq. ft.; and

WHEREAS, the site is proposed to be developed with a 11,061 sq. ft. two-story as of right office building, subsequent to the demolition of a smaller existing building; and

WHEREAS, the proposed office building will be occupied by the owner of the site, a union pension fund; and

WHEREAS, pursuant to ZR § 36-21, UG 6 uses in parking requirement category B1 within the subject zoning district are required to have one space per 300 sq. ft. of floor area; thus, the proposed office building is required to have 36 accessory parking spaces; and

WHEREAS, however, pursuant to ZR § 73-44, the Board may allow a reduction in the number of accessory off-street parking spaces required under ZR § 36-21; and

WHEREAS, for the subject C8-1 zoning district and the subject UG 6 use, the Board may reduce the required parking from 1 space per 300 sq. ft. of floor area to 1 space per 600 sq. ft. of floor area; and

WHEREAS, the applicant represents that assuming a special permit is obtained, the site will be developed with an 18 space accessory parking lot; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the proposed UG 6 use in the B1 parking category is contemplated in good faith; and

WHEREAS, the applicant has submitted sufficient evidence of the good faith of the union in pursuing the proposed UG 6 office use; in particular, the Board observes that the union currently owns the site and will occupy the proposed building, and that the union has submitted documentation as to the need to replace its existing Manhattan location with the proposed Brooklyn office; and

WHEREAS, at hearing, the Board expressed concern about the following matters: (1) the feasibility of the proposed parking layout; (2) the availability of mass transit and available street parking; and (3) the operation of the union at the proposed building; and

WHEREAS, as to the first issue, the applicant cited to a pre-consideration from the Department of Buildings that indicated that the layout complied with applicable regulations; and

WHEREAS, additionally, the Board will condition this grant on DOB review and approval of the parking layout; the Board is not approving the layout and no layout is reflected on the BSA-approved plans; and

WHEREAS, as to the second issue, the applicant cited to a parking and transportation survey, which reflects the availability of significant street parking in the area of the premises, as well as the proximity of two bus lines and two subway lines; and

WHEREAS, as to the third issue, the applicant submitted a statement regarding the operations of the proposed facility, which states that the building will be occupied by 35 employees, the majority of whom will use mass transit to get to work; and

WHEREAS, further, the facility will only generate approximately 25 visitations per week, since the majority of customer service provided by the employees of the facility

MINUTES

shall be via telephone or e-mail; and

WHEREAS, based upon the above, 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 Z.R. §§ 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. 06BSA019K dated January 23, 2006; 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 Z.R. §§ 73-44 and 73-03, to permit, within a C8-1 zoning district, a reduction in the required number of accessory parking spaces for a proposed Use Group 6 office building from 36 to 18, contrary to Z.R. § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received April 18, 2006" -(6) sheets and "Received May 1, 2006" -(1) sheet and on further condition:

THAT there shall be no change in ownership or use of the site or the building without prior application to and approval from the Board;

THAT a minimum of 18 parking spaces shall be provided in the accessory parking lot;

THAT no certificate of occupancy shall hereafter be issued if the use of the site is changed to a use that would require more accessory parking spaces than UG 6 parking category B1, unless additional accessory off-street parking spaces sufficient to meet such requirements are provided;

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; 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, May 2, 2006.

340-05-BZ

APPLICANT – The Law office of Fredrick A. Becker, for Chelsea Eighth L.P., owner; TSI West 16th Street dba New York Sports Club, lessee.

SUBJECT – Application November 29, 2005 – Variance under Z.R. §72-21. In C1-6A, C6-2A, R8B districts, permission sought to legalize a physical culture establishment (PCE), located in the portions of the cellar and first floor of an existing 22-story mixed-use building. The proposed use is contrary to district use regulations.

PREMISES AFFECTED – 270 West 17th Street, a/k/a 124-128 Eighth Avenue, easterly sided of Eighth Avenue between 17th Street and West 16th Streets, Block 766, Lots 1101, 1102, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 13, 2006, acting on Department of Buildings Application No. 103949916, reads, in pertinent part:

“Physical Culture Establishment use is not allowed within a C1-6A, C6-2A, and R8B zoning district pursuant to ZR Sections 32-00 and 22-00.”; and

WHEREAS, this is an application under ZR § 72-21, to permit the legalization of a physical culture establishment (PCE) located in a portion of the cellar and first floor of an existing mixed-use 21-story building; and

WHEREAS, a public hearing was held on this application on April 4, 2006 after due notice by publication in *The City Record*, and then to decision on May 2, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

MINUTES

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

WHEREAS, the subject building is located on the east side of Eighth Avenue between 16th and 17th Streets; and

WHEREAS, the building is located on a site that is now, subsequent to the Chelsea Rezoning in 1999, partially with a C1-6A zoning district, partially within a C6-2A district, and partially within an R8B district; and

WHEREAS, the PCE itself is located within that portion of the building that is within the C1-6A and C6-2A districts; and

WHEREAS, a PCE is not permitted in the C1-6A zoning district, pursuant to ZR § 32-00 and 22-00; therefore, a variance is required; and

WHEREAS, prior to the rezoning, the site was formerly within C2-5 (R8), C6-2M, and R8 zoning districts; and

WHEREAS, the record indicates that on October 25, 1994, under BSA Cal. No. 162-93-BZ, the Board previously a special permit allowing the PCE, because it was located within that portion of the building that was within the C2-5 and C6-2M zoning districts, where PCEs are allowed; and

WHEREAS, however, because of the change in the site's zoning, when this previously approved special permit's term lapsed, no extension was available; and

WHEREAS, the existing PCE occupies a total of 16,606 sq. ft. of floor area within the building, including 12,306 sq. ft. of the cellar and 4,300 sq. ft. of the first floor; and

WHEREAS, the applicant represents that the PCE space is located primarily within the C1-6A district, though a small corner of the cellar is within the C6-2A district; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (1) the space occupied by the PCE has only 16 feet of frontage on Eighth Avenue; and (2) more than 75 percent of the space is at the cellar level; and

WHEREAS, the applicant states that the above-mentioned characteristics are unique in relation to other commercially occupied sites in the area, in that other sites do not have significant below-grade commercial space; and

WHEREAS, the applicant represents that the layout of the space occupied by the PCE and its location primarily in the cellar cause it to be poorly suited for a conventional retail use, since the amount of frontage on a commercial street (Eighth Avenue) is limited and the significant cellar space has no windows or street presence; and

WHEREAS, based on the above, the Board finds that there are unique physical conditions inherent to the existing space, which, when considered in the aggregate, create an unnecessary hardship in conforming strictly with the applicable use provisions of the Zoning Resolution; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the building with a conforming use would not yield the owner a reasonable return as the space is substandard and has limited value; and

WHEREAS, the Board observes that the viability of the

21-story building depends, in part, upon revenue generation from commercially zoned spaces within the building, including the space occupied by the PCE; and

WHEREAS, further, the Board observes that without the variance, such space would not generate such revenue, given its lack of desirability for other as of right retail uses because of its location and configuration; and

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

WHEREAS, the applicant represents that the surrounding area is characterized by a mix of commercial and residential uses, and that the existing PCE has been operating at the site for more than 10 years and remains compatible with these uses; and

WHEREAS, the hours of operation for the PCE are 6:00 p.m. to 11:00 p.m., Monday through Thursday; 6:00 a.m. to 10:00 p.m., Friday; and 8:00 a.m. to 9:00 p.m., weekends; and

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

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

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

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

WHEREAS, the Board notes that although a variance is being requested, the subject application meets all the requirements of the special permit for a PCE, except for the required zoning district; and

WHEREAS, the PCE contains facilities for classes, instruction and programs for physical improvement, bodybuilding, weight reduction and aerobics; 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 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 06-BSA-036M, dated November 29, 2005; 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; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and

MINUTES

Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; 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 617.4, 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, to permit the legalization of a physical culture establishment located in the cellar and first floor of an existing mixed-use building located on a site within R8B, C1-6A and C6-2A zoning districts, contrary to ZR § 32-00; on condition that all work shall substantially conform to drawings, filed with this application marked "Received April 17, 2006" - (2) sheets; and on further condition:

THAT the term of this variance will be ten years from October 25, 2004, to expire on October 25, 2014;

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 the hours of operation shall be limited to 6:00 A.M. to 11:00 P.M., Monday through Thursday; 6:00 AM to 10:00 P.M., Friday; and 8:00 A.M. to 9:00 P.M., weekends;

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

THAT all fire protection measures indicated on the BSA-approved plans shall be installed and maintained, as approved by DOB;

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

THAT all exiting requirements 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; 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, May 2, 2006.

19-06-BZ

APPLICANT – Sheldon Lobel, P.c., for MiCasa HDFC, owner.

SUBJECT – Application January 27, 2006 – Under §72-21 to

permit a proposed eight-story residential building which requires variance of Z.R. §§23-145 (floor area), 23-633 (height and setback) 25-25c (parking), 23-851(court regulations) and 23-861 (legal window), located in an R7-1 zoning district.

PREMISES AFFECTED – 745 Fox Street, entire block front of East 156th Street between Fox Street and Beck Street, Block 2707, Lot 11, Borough of The Bronx.

COMMUNITY BOARD #2BX

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Bronx Borough Commissioner, dated November 15, 2004, acting on Department of Buildings Application No. 401843243, reads, in pertinent part:

“Floor Area: Floor area does not comply with ZR 23-145 of the Quality Housing Regulations.

Proposed residential floor area exceeds maximum allowed floor area of 68,800 S.F.

Wall Height: Proposed wall height does not comply with ZR 23-633c. Proposed wall height exceeds maximum wall height of 60’

Total Height: Total height does not comply with ZR 23-633c. Proposed total height exceeds maximum total height of 75’

Setback: Proposed setback does not comply with 23-633b. Proposed zero setback does not comply with required 20’ setback.

Court Regulations: Court does not comply with ZR 23-851. Proposed courtyard depth is less than minimum dimension of 30’

Legal Windows: Distance from wall does not comply with ZR 23-861. Proposed wall is less than minimum distance of 30’

Parking: Provision of parking spaces does not comply with ZR 25-25c. No parking spaces are provided.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R7-1 zoning district, the proposed construction of an eight-story plus basement residential building that exceeds the permitted Floor Area Ratio (FAR), wall height, and total height, and does not provide the required setback, courtyard depth, window distance from wall, and parking, contrary to ZR §§ 23-145, 23-633, 23-851, 23-861, and 25-25; and

WHEREAS, a public hearing was held on this application on April 11, 2006 after due notice by publication in The City Record, and then to decision on May 2, 2006; and

WHEREAS, this application is brought on behalf of

MINUTES

MiCasa HDFC, a not-for-profit entity; and

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

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins; and

WHEREAS, the site's lot area is 20,000 sq. ft., and it encompasses the entire 200 foot length of the block on the southern side of 156th Street, extending 100 feet south along Fox and Beck Streets; and

WHEREAS, the premises is located in the Longwood Historic District, as designated by the New York City Landmarks Preservation Commission (LPC); and

WHEREAS, the site is currently improved upon with a two-story 8,707 sq. ft. historic structure that the applicant contends is in poor condition and has been vacant for twenty years; and

WHEREAS, the applicant notes that due to the regulations governing the Longwood Historic District, the existing building may not be demolished and its rehabilitation is subject to LPC guidelines; and

WHEREAS, the applicant proposes to rehabilitate the existing historic structure for use as a community facility; and to develop the remainder of the site with an eight-story plus basement 95-unit residential building; and

WHEREAS, the proposed building will have a total floor area of 89,850 sq. ft. (96,000 sq. ft. is the maximum permitted); a total FAR of 4.49 (4.8 is the maximum permitted); a residential floor area of 82,447 sq. ft. (68,800 sq. ft. is the maximum permitted); a total residential FAR of 4.12 (3.44 is the maximum permitted); a total community facility floor area of 7,403 sq. ft. (20,000 sq. ft. is the maximum permitted); a total community facility FAR of .37 (1.0 is the maximum permitted); a street wall height of 78 feet (60 feet is the maximum permitted), without a setback (a 20 foot setback is the minimum required); a total height of 78 feet (75 feet is the maximum permitted); and no parking spaces (14 spaces are required); and

WHEREAS, the Board notes that the applicant initially requested a waiver for a street wall height of 83 feet, though the LPC approved a street wall height of 78 feet; and

WHEREAS, the applicant subsequently amended the street wall height to 78 ft.; and

WHEREAS, the applicant represents that the proposed housing program will provide 30 percent of the units for homeless grandparents raising children and 70 percent for other low-income senior citizens, and was designed in collaboration with New York City's Housing Development Corporation (HDC) and Department of Housing Preservation and Development, and the New York State Homeless Housing Assistance Program (HHAP); and

WHEREAS, further, the applicant represents that design includes access to the onsite community facility with social service programming; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties

and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the site is occupied by an historic structure, under the jurisdiction of LPC, the exterior of which cannot be altered or demolished; and (2) the subsurface of the site has an irregular rock composition and significant slope; and

WHEREAS, the applicant asserts that the existence of the historic structure on the site hinders as of right development in two primary ways: (1) its orientation at an angle in relationship to the street results in constraints on design options; and (2) because of its landmark status, floor area may not be constructed above it; and

WHEREAS, these two restraints necessitate the shift of the new building's bulk to other parts of the site unoccupied and not affected by the historic structure; and

WHEREAS, this results in the need for some of the cited waivers; and

WHEREAS, specifically, because the new building must avoid the diagonally-positioned historic structure and leave an area in front for a forecourt to allow for its visibility from Beck Street, an irregularly-shaped courtyard, without the required 30 ft. depth, is formed; hence, courtyard relief is necessary; and

WHEREAS, additionally, in order to keep the Beck Street portion of the building low, to match adjacent townhouses, the bulk of the building, which normally could be distributed over the entire site, now is situated primarily along 156th and Fox Streets; and

WHEREAS, this results in a non-complying wall height and total height, and the inability to provide a required setback; hence, waivers for these three provisions are necessary as well; and

WHEREAS, the proposed building will also be situated in relation to the existing structure such that there will be a range of distances between windows and walls, with a depth at one point of 15'-7"; since this depth is non-complying, a waiver of the minimum distance requirements is also necessary; and

WHEREAS, as to floor area, the applicant notes that in order to qualify for funding from HDC, HHAP and other city, state, and private sources, the applicant must provide a minimum of 95 apartments; and

WHEREAS, creating 95 livable apartments requires a certain amount of floor area; and

WHEREAS, further complicating matters is the site's unique subsurface condition; and

WHEREAS, specifically, the applicant cites to a geotechnical report that reflects an uneven distribution of subsurface rock formation and a drop in slope of ten feet along 156th Street, from Beck Street to Fox Street; and

WHEREAS, due to the unique subsurface conditions, it is cost-prohibitive to excavate a full cellar; and

WHEREAS, thus, program functions that could have been placed in the cellar are now above grade and count as floor area; this fact, along with the need to create a minimum of 95 units, necessitates the floor area waiver; and

WHEREAS, finally, the parking waiver is also a result of the subsurface conditions combined with MiCasa's

MINUTES

programmatic needs; and

WHEREAS, specifically, the difficulty of constructing a cellar eliminates the possibility of constructing a below grade parking lot, and use of the basement or first floor for parking would significantly diminish the amount of space at those levels for the ancillary programs; and

WHEREAS, the Board agrees that the unique physical conditions cited above, when considered in the aggregate and in light of MiCasa's programmatic needs, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

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

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant states that the proposed eight-story street wall without a setback is compatible with the seven-story multi-family building adjacent to the site on Fox Street, and with the numerous five, six, and seven-story multi-family buildings along Fox Street, 156th Street, Legget Street, and Southern Boulevard; and

WHEREAS, the applicant asserts that the open space around the historic structure would maintain its visibility and contribute to the character of the surrounding historic district; and

WHEREAS, the applicant further asserts that the resulting courtyard depths and window to wall distances allow for considerable landscaped open space that would also contribute to the character of the neighborhood; and

WHEREAS, the Board also notes that LPC determined that the proposed development will not alter the historic character of the neighborhood and issued the applicant a Certificate of Appropriateness ("C of A") for the proposal; in its report, LPC noted characteristics such as floor to ceiling heights that are proportional to those of adjoining buildings and the harmonious transition to neighboring row houses; and

WHEREAS, finally, as to parking, the applicant asserts that because the future residents will qualify as low-income and the vast majority will be elderly, substantial car ownership is not anticipated and the absence of the 14 required spaces will not have a negative impact on the character of the neighborhood; and

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

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

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

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

WHEREAS, the subject site is located within the Longwood Historic District (and Extension) and as previously noted in this resolution, a C of A has been issued for this proposal by the LPC on December 15, 2005; 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.06BSA052X, dated February 22, 2006.

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, LPC has reviewed an Environmental Assessment Statement Form, dated April 2, 2004; and

WHEREAS, based on its review of archaeological sensitivity models and historic maps, LPC has determined that there is the potential presence of archaeological resources on the site, including the potential for the recovery of remains from 19th century occupation of the Site; and

WHEREAS, LPC requested that the applicant prepare an archaeological documentary study to clarify these initial findings; and

WHEREAS, the applicant decided to prepare a restrictive declaration that would incorporate conditions designed to address these archaeological concerns; and

WHEREAS, this restrictive declaration was executed on April 7, 2006 and recorded on April 19, 2006; and

WHEREAS, LPC has determined that there will not be any impacts from the subject proposal, based on the implementation of the measures cited in the restrictive declaration and the applicant's compliance with the conditions noted below; 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 Type I 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 the required findings under ZR § 72-21, to permit, within an R7-1 zoning district, the proposed

MINUTES

construction of an eight-story plus basement residential building that exceeds the permitted FAR, wall height, and total height, and does not provide the required setback, courtyard depth, window distance from wall, and parking, contrary to ZR §§ 23-145, 23-633, 23-851, 23-861, and 25-25; *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 “April 27, 2006”– (16) sheets; and *on further condition*:

THAT any change in ownership, operator, or control shall require the prior approval of the Board;

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

THAT the applicant or any successor in title will adhere to all requirements for archaeological identification, investigation, and mitigation as set forth in the CEQR Technical Manual and LPC’s Guidelines for Archaeological Work in NYC, including without limitation, the completion of an archaeological documentary study, archaeological field testing, excavation, mitigation, curation of archaeological resources, and a final archeological report, as required by the LPC, and as memorialized in the restrictive declaration executed on October 18, 2005 (collectively, the “Archaeological Work”);

THAT prior to the issuance of any DOB permit for any work on the site that would result in soil disturbance (such as site preparation, grading or excavation), the applicant or any successor will perform all of the Archaeological Work to the satisfaction of LPC and submit a written report that must be approved by LPC; the only exception to this condition shall be those soil disturbing activities necessitated by the applicant’s performance of the Archaeological Work required for LPC’s approval (such as archaeological “pits”) that may require a DOB permit;

THAT any DOB permit issued for soil disturbing activities pursuant to this exception shall clearly state on its face that such soil disturbance is limited to that necessary to perform the mandated archaeological work;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until the Chairperson of LPC shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the Archaeological Work has been completed to the satisfaction of LPC;

THAT the parameters of the proposed building shall be as follows: a residential FAR of 4.12; a total floor area of 89,850 sq. ft., a residential floor area of 82,447 sq. ft.; a community facility floor area of 7,403 sq. ft.; a total FAR of 4.49; a residential FAR of 4.12; a community facility FAR of .37; a street wall height of 78 feet; and a total height of 78 feet (without bulkhead);

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

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

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

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

Adopted by the Board of Standards and Appeals, May 2, 2006.

47-05-BZ

APPLICANT – Cozin O’Connor, LLP, for AMF Machine, owner.

SUBJECT – Application March 1, 2005 – Under Z.R. §72-21 to permit the proposed eight story and penthouse mixed-use building, located in an R6B zoning district, with a C2-3 overlay, which exceeds the permitted floor area, wall and building height requirements, is contrary to Z.R. §23-145 and §23-633.

PREMISES AFFECTED – 90-15 Corona Avenue, northeast corner of 90th Street, Block 1586, Lot 10, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Howard B. Hornstein.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to June 13, 2006, at 1:30 P.M., for decision, hearing closed.

52-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Coptic Orthodox Church of St. George, owner.

SUBJECT – Application March 4, 2005 – under Z.R. §72-21 proposed development of a six-story and cellar building, with community use on floors one through three, residential use on floors three through six, and with parking in the cellar, located in a C1-2 within an R5 zoning district.

PREMISES AFFECTED – 6209 11th Avenue, northeast corner of 63rd Street, Block 5731, Lot 2, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to June 20, 2006, at 1:30 P.M., for decision, hearing closed.

132-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Sami Alboukai,

MINUTES

owner.

SUBJECT – Application May 26, 2005 – Under Z.R. §73-622 to request a special permit to allow the enlargement of a single family residence which exceeds the allowable floor area and lot coverage per ZR 23-141, a rear yard less than the minimum per ZR 23-47 and a perimeter wall height greater than the maximum per ZR23-31. The premise is located in an R3-1 zoning district.

PREMISES AFFECTED – 220 West End Avenue, west side of West End Avenue between Oriental Boulevard and Esplanade, Block 8724, Lot 158, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to June 6, 2006, at 1:30 P.M., for continued hearing.

182-05-BZ

APPLICANT – Eric Palatnik, P.C., for 4 Park Avenue Associates, owner.

SUBJECT – Application August 4, 2005 – Under Z.R. §73-36 to allow the legalization of a physical culture establishment in a C5-3 zoning district.

PREMISES AFFECTED – 4 Park Avenue, between East 33rd and East 34th Streets, Block 863, Lot 44, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to July 11, 2006, at 1:30 P.M., for continued hearing.

297-05-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Vestry Acquisition, LLC, owner.

SUBJECT – Application September 30, 2005 – Zoning Variance (use) pursuant to ZR §72-21 to allow a proposed nine (9) story residential building containing seven (7) dwelling units and eight (8) accessory parking spaces located in an M1-5 district (Area B2) of the Special Tribeca Mixed Use District; contrary to ZR§42-00, §111-104(b) and §13-12.

PREMISES AFFECTED – 33 Vestry Street, located on the southerly side of Vestry Street, 100’ west of Hudson Street, Block 219, Lot 18, Borough of Manhattan

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Eric Palatnik and Winica Dubbeldam.

ACTION OF THE BOARD – Laid over to June 6, 2006, at 1:30 P.M., for continued hearing.

314-05-BZ

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

SUBJECT – Application October 25, 2005 – Special Permit Z.R. §73-622 for an enlargement to a single family residence

which proposed an increase in the degree of non-compliance with respect to floor area ratio and open space/lot coverage as per ZR23-141b, less than the total required side yards as per ZR23-361a and a rear yard less than the required rear yard as per ZR 23-47. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 1670 East 23rd Street, East 23rd Street between Avenue P and Quentin Road, Block 6785, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to June 6, 2006, at 1:30 P.M., for continued hearing.

339-05-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Lev Bais Yaakov, Inc., owner.

SUBJECT – Application November 25, 2005 – Under Z.R. §72-21 – To permit the proposed construction of a Yeshiva and is contrary to Z.R. Sections 33-121 (floor area) and 33-441 (front setbacks).

PREMISES AFFECTED – 3574 Nostrand Avenue, south side of Nostrand Avenue, north of Avenue W, Block 7386, Lot 131, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik,.

For Opposition: Mark Schips, Arlene Resman, George Kapsi, and others.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 16, 2006, at 1:30 P.M., for decision, hearing closed.

4-06-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Isaac Tessler and Miriam Tessler, owners.

SUBJECT – Application January 5, 2006 – Special Permit Z.R. §73-622 for an enlargement of an existing single family residence to vary ZR§23-141 for open space and floor area and 23-47 for less than the minimum rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1435 East 21st Street, East 21st Street between Avenue M and Avenue N, Block 7657, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to June 13, 2006, at 1:30 P.M., for continued hearing.

28-06-BZ

MINUTES

APPLICANT – Harold Weinberg, P.E., for Moshe Plutchok, owner.

SUBJECT – Application February 16, 2006 - Special Permit, ZR 73-622 for the enlargement of an existing single family home which seeks to vary ZR 23-141 for increase in floor area, lot coverage and open space ratio, ZR 23-461 for side yards and ZR 23-47 for less than the required rear yard. The premise is located in an R3-1 zoning district.

PREMISES AFFECTED – 158 Beaumont Street, west side, 300' north of Oriental Boulevard, between Oriental Boulevard and Hampton Avenue, Block 8733, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg, P.E..

ACTION OF THE BOARD – Laid over to May 16, 2006, at 1:30 P.M., for continued hearing.

Jeffrey Mulligan, Executive Director.

Adjourned: 3:30P.M.