
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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July 20, 2006

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DOCKETS

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130-06-BZ

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131-06-BZ

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132-06-BZ

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133-06-BZ

225 Varick Street, Westerly side of varick Street between West Houston Street and Clarkson Street., Block 581, Lot 63, Borough of **Manhattan, Community Board: 2**. Special Permit: 73-36 - to allow the operation of a Physical culture establishment on a portion of the second floor of a twelve story commercial building.

134-06-BZ

241-15 Northern Boulevard, Northwest corner of the intersection between Northern Boulevard and Douglaston Parkway., Block 8092, Lot 39, Borough of **Queens, Community Board: 11**. Under 72-21 - To permit the construction of a five-story multi-family residential building.

135-06-A

37 Newport Avenue, East side of New Port Walk 110.19 south of Oceanside Avenue., Block 16350, Lot 400, Borough of **Queens, Community Board: 14**. Appeal - seeking to enlarge one family home contrary to GCL 36 and the upgarde of the private dipsosal contrary to DOB ploicy

136-06-BZ

11-15 Old Fulton Street, Old Fulton Street between Front and Water Street, Block 35, Lot 7, 8, 9, Borough of **Brooklyn, Community Board: 2**. Under 72-21 - To permit an addition of a fifth floor and a change to residential use (UG2).

137-06-BZ

1717 Hering Avenue, West side of Hering Avenue, 325 feet, south of Morris Park Avenue., Block 4115, Lot 23, Borough of **Bronx, Community Board: 11**. Under 72-21 - Proposed construction of a two-family dwelling that does not provide a required side yard/open area and does not provide required front yard.

138-06-BZ

3447 Bedford Avenue, Between Avenue M and Avenue N (approx. 170' south of Avenue M), Block 7661, Lot 31, Borough of **Brooklyn, Community Board: 14**. Special Permit: 73-622 - To allow the enlargement of a single family residence.

139-06-A

1 Irving Walk, East south Walk at the intersection of Oceanside Avenue., Block 16350, Lot 400, Borough of **Queens, Community Board: 14**. Appeal.

140-06-BZ

25-29 Belvidere Street, East side of Belviderer Street between Broadway and Beaver Street., Block 3135, Lot 36, Borough of **Brooklyn, Community Board: 4**. Special Permit: 73-53 - To allow the enlargement of a legal conforming manufacturing building.

141-06-BZ

2084 60th Street, Southwest corner of 21st Avenue and 60th Street., Block 5521, Lot 42, Borough of **Brooklyn, Community Board: 12**. Special Permit: 73-622 - To permit the proposed Synagogue, which does not comply with floor area and lot coverage(ZR 24-11; front yards (24-34; side yard (24-35; wall height and sky expoure plane(24-521) and 25-31 (parking).

DOCKET

142-06-A

3209 Tiemann Avenue, Northwest corner of Burke Avenue and Teimann Avenue, Block 4752, Lot 173, Borough of **Bronx, Community Board: 12.** General City Law Section 35 - To permit the construction of six (2) story,(2) family homes and one (2) story (1) family home.

143-06-A

3209 Tiemann Avenue, Northwest corner of Burke Avenue and Tiemann Avenue, Block 4752, Lot 173/175, Borough of **Bronx, Community Board: 12.** General City Law Section 35 - To permit the construction of six (2) story, (2) family homes and one (2) story (1) family home.

144-06-A

3209 Tiemann Avenue, Northwest corner of Burke Avenue and Teimann Avenue, Block 4752, Lot 175, Borough of **Bronx, Community Board: 12.** General City Law Section 35 - To permit the construction of six (2) story,(2) family homes and one (2) story (1) family home.

145-06-A

3209 Tiemann Avenue, Northwest corner of Burke Avenue and Tiemann Avenue, Block 4752, Lot 175, Borough of **Bronx, Community Board: 12.** General City Law Section 35 - To permit the construction of six (2) story, (2) family homes and one (2) story (1) family home.

146-06-A

3209 Tiemann Avenue, Northwest corner of Burke Avenue and Tiemann Avenue, Block 4752, Lot 175/182, Borough of **Bronx, Community Board: 12.** General City Law Section 35 - To permit the construction of six (2) story, (2) family homes and one (2) story (1) family home.

147-06-A

3209 Tiemann Avenue, Northwest corner of Burke Avenue and Tiemann Avenue, Block 4752, Lot 182, Borough of **Bronx, Community Board: 12.** General City Law Section 35 - To permit the construction of six (2) story, (2) family homes and one (2) story (1) family home.

148-06-A

3209 Tiemann Avenue, Northwest corner of Burke Avenue and Tiemann Avenue, Block 4752, Lot 182, Borough of **Bronx, Community Board: 12.** General City Law Section 35 - To permit the construction of a (2) story, (2) family home and one (2) story (1) family home.

149-06-BZ

3701 14th Avenue, Southwest corner of the intersection formed by 14th Avenue and 37th Street, Block 5348, Lot 9 (portion), Borough of **Brooklyn, Community Board: 12.** Under 72-21 - to permit the development of the site to accommodate a not-for-profit ambulance/emergency vehicle garage, dispatch, and training facility.

150-06-A

2550 Kingsland Avenue, 284.03' south of intersection of Allerton Avenue and Kingsland Avenue., Block 4488, Lot 30, Borough of **Bronx, Community Board: 11.** Appeals - To construct (2) new (2) family buildings which would comply with building law and zoning resolutions.

151-06-A

2552 Kingsland Avenue, 284.03' south of intersection of Allerton Avenue and Kingsland Avenue., Block 4488, Lot 32, Borough of **Bronx, Community Board: 11.** Appeals - To construct (2) new (2) family buildings which would comply with building laws and zoning resolutions.

152-06-BZ

82 Lamberts Lane, South west corner of Lamberts Lane and Seldin Avenue, Block 1609, Lot 16, Borough of **Staten Island, Community Board: 2.** Special Permit: Z.R. §73-125 - To permit ambulatory diagnostic/treatment care facility in excess of 1, 500 sq.ft.

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

AUGUST 15, 2006, 10 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday Morning*, August 15, 2006, at 10 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

802-48-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Sheldon Rodbell 1993 Trust #2, owner; Beach Channel Island Drive, lessee.

SUBJECT – Application November 2, 2005 - Pursuant to ZR 11-411 for the Extension of Term of a UG16 gasoline service station with automotive repair for a term of ten years, to expire in June 24, 2015. This application also purposes to legalize the conversion of two service bays to an accessory convenience store, maintain one service bay for minor auto repairs and the continuation of gasoline service sales. The premise is located in an R5 zoning district.

PREMISES AFFECTED – 13-46 Beach Channel Dr., a/k/a 2118 Dix Place, Northeast corner of Beach Channel Drive and Dix Place, Block 15527, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

441-65-BZ

APPLICANT – Sheldon Lobel, P.C. for Eleanor Barrett c/o JP Morgan Chase, owner; Hess Amerada Corporation, lessee.

SUBJECT – Application March 20, 2006 - Pursuant to ZR 73-11 & 73-211 an Amendment to a previously granted special permit for the redevelopment of a gasoline service station, to construct an accessory convenience store (Hess Express), to construct a new canopy and six pump islands with MPD dispensers and one diesel fuel dispenser. The premise is located in C2-1/R3-2 zoning district.

PREMISES AFFECTED – 2488 Hylan Boulevard, located on the east side of Hylan Boulevard between Jacques Avenue and New Dorp Lane, Block 3900, Lot 12, Borough of Staten Island.

COMMUNITY BOARD #2SI

68-94-BZ II

APPLICANT – Cozen O’Connor, for Bay Plaza Community Center LLC, owner; Jack Lalanne Fitness Centers, Incorporated, lessee.

SUBJECT - Application June 30, 2006 - This application is to Reopen and Extend the Time to Obtain a Certificate of Occupancy for the operation of a PCE (Bally Total Fitness) on the first and second floors of the Co-Op City Bay Plaza shopping center which expires on August 23, 2006. The requested amount of time is 18 months. The premise is located in an C4-3 zoning district.

PREMISES AFFECTED – 2100 Bartow Avenue, Southside at eastern-most side of Baychester Avenue, Block 5141, Lot 810, Borough of the Bronx.

COMMUNITY BOARD #10BX

114-94-BZ, Vol. II

APPLICANT – Ralph Giordano, AIA for Freehold SL Limited Partnership, owner; Kentucky Fried Chicken Corporation, lessee.

SUBJECT – Application March 24, 2006 – Extension of Term/Waiver – to allow the continuation of a drive-thru-facility that is accessory to an existing eating and drinking establishment located in a C1-2 zoning district which expired on July 2, 2005. The application seeks to renew the term for an additional 5 years.

PREMISES AFFECTED – 44 Victory Boulevard, Bay Street and VanDuzer Street, Block 498, Lot 40, Borough of Staten Island.

COMMUNITY BOARD #1SI

Jeff Mulligan, Executive Director

AUGUST 15, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, August 15, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

291-05-BZ

APPLICANT – Eric Palatnik, P.C. for Rallaele DelliGatti, owner.

SUBJECT – Application September 22, 2005 - Pursuant to ZR 72-21 for a Variance to allow for the demolition of an existing single family residence and its re-development with a new single family residence which has less than the required front yard, ZR 23-45. The premise is located in an R-2A zoning district.

PREMISES AFFECTED - 10-33 Burton Street, Burton Street between 12th Avenue and 12th Road, Block 4607, Lot 26, Borough of Queens.

COMMUNITY BOARD #7Q

37-06-BZ

APPLICANT – Leo Weinberger, Esq., for 180 Lafayette

CALENDAR

Corporation, owner, Skin Care 180, Incorporated, lessee.
SUBJECT - Application March 2, 2006 - under Z.R. §73-36
to allow the proposed PCE (Jasmine Spa) on the first floor
and cellar level in an existing seven-story building. The
premise is located in a M1-5B zoning district.
PREMISES AFFECTED – 180 Lafayette Street, east side of
Lafayette Street between Grand and Broome Streets, Block
473, Lot 43, Borough of Manhattan.
COMMUNITY BOARD #2M

Jeffrey Mulligan, Executive Director.

MINUTES

REGULAR MEETING TUESDAY MORNING, JULY 11, 2006 10:00 A.M.

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

The motion is to approve the minutes of regular meetings of the Board held on Tuesday morning and afternoon, April 25, 2006 and Wednesday morning April 26, 2006 as printed in the bulletin of May 5, 2006, Volume 91, Nos. 17 & 18. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

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

APPEARANCES –

For Applicant: Peter Hirshman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term of the prior grant, which expired on June 14, 2001; and

WHEREAS, a public hearing was held on this application on June 13, 2006, after due notice by publication in *The City Record*, and then to decision on July 11, 2006; and

WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

WHEREAS, on June 14, 1966, the Board granted a zoning variance and a Multiple Dwelling Law waiver under the subject calendar number to allow 25 transient parking spaces in the cellar accessory garage of a multiple dwelling located at the subject premises, for a term of 15 years; and

WHEREAS, subsequently, the term has been extended for

two periods of ten years, most recently on March 30, 1993, which expired on June 14, 2001; and

WHEREAS, the applicant submitted photographs of the notice to tenants posted in the garage which, as one of the conditions of the previous grant, identifies their right to recapture transient parking spaces pursuant to the Multiple Dwelling Law; and

WHEREAS, the Board has reviewed the record and finds that the instant application is appropriate to grant, based upon the evidence submitted.

Therefore it is Resolved that the Board of Standards and Appeals, *waives* the Rules of Practice and Procedure, and *reopens* and *amends* the resolution having been adopted on June 14, 1966, so that, as amended, this portion of the resolution shall read: “to permit the extension of the term of the grant for an additional ten years from June 14, 2001, the expiration of the prior grant, expiring on June 14, 2011; *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received ‘June 27, 2006’-(2) sheets, and *on further condition*:

THAT this term shall expire on June 14, 2011;

THAT there shall be a maximum of 25 parking spaces used for transient parking at the cellar floor at the subject premises;

THAT all residential leases shall indicate that the spaces devoted to transient parking can be recaptured by residential tenants on 30 days notice to the owner;

THAT a sign providing the same information about tenant recapture rights be placed in a conspicuous place within the garage;

THAT the above conditions and all relevant conditions from the prior resolutions shall appear on the certificate of occupancy;

THAT a new certificate of occupancy shall be obtained within one year of the date of this grant;

THAT the layout of the parking lot shall be as 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 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.”

(NB 266/1961)

Adopted by the Board of Standards and Appeals, July 11, 2006.

393-66-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Athena Properties, owner; Ace Dropcloth Co., lessee.

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SUBJECT – Application May 2, 2006 – Application for a waiver of the Rules and Procedure and an extension of time to obtain a certificate of occupancy.

PREMISES AFFECTED – 453 East Tremont Avenue, East Tremont Avenue and Washington Avenue, Block 3034, Lot 52, Borough of The Bronx.

COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to obtain a new certificate of occupancy; and

WHEREAS, a public hearing was held on this application on June 20, 2006, after due notice by publication in *The City Record*, and then to decision on July 11, 2006; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since July 19, 1966, when the Board granted an application to permit a change in use from a bowling alley and lounge to manufacturing of canvas products and textiles; and

WHEREAS, subsequently, the grant was amended by the Board on November 23, 1999, to permit the use of a portion of the second floor as storage for the manufacturing on the first floor; and

WHEREAS, a condition of the most recent amendment was that a new certificate of occupancy be obtained by November 23, 2000; and

WHEREAS, however, the applicant represents that although construction was completed within the specified time period, DOB required a sprinkler system and other additional work; and

WHEREAS, the applicant represents that the DOB plans had to be modified to incorporate the changes and that additional time and expenditures were required; and

WHEREAS, the applicant states that all work is completed and inspected and that the application for a certificate of occupancy is pending at DOB; 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 waives the Rules of Practice and Procedure, and reopens and amends the resolution, as adopted on July 19, 1966 under the subject calendar number, and as subsequently amended, so that as amended this portion of the resolution shall read: “to permit an extension of time to obtain a certificate of occupancy for an additional period of six months from the prior grant’s expiration, to expire on January 11, 2007, on condition:

THAT a new certificate of occupancy shall be obtained by January 11, 2007;

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. 200454230/99)

Adopted by the Board of Standards and Appeals, July 11, 2006.

335-88-BZ

APPLICANT – Eric Palatnik, P.C., for 5808 Flatlands Realty Corp., owner.

SUBJECT – Application December 16, 2005 – Pursuant to Z.R. §11-411 for the Extension of Term of Variance which expired on July 3, 2005 and to waive the Rules of Practice and Procedure to file more than 30 days after expiration. The use on site is for an automotive service station (Sunoco) with minor auto repairs and accessory convenience store.

PREMISES AFFECTED – 5808/28 Flatland Avenue, southwest corner of East 59th Street, and Flatlands Avenue, Block 7784, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and, pursuant to ZR § 11-411, an extension of term of a prior grant for a gasoline service station, which expired on July 3, 2005; and

WHEREAS, a public hearing was held on this application on June 6, 2006, after due notice by publication in *The City Record*, and then to decision on July 11, 2006; and

WHEREAS, Community Board 18, Queens, recommends approval of this application; and

WHEREAS, the subject 24,000 sq. ft lot is located on the southwest corner of East 59th Street and Flatlands Avenue; and

WHEREAS, the site is located within an R3-2 zoning district and is improved upon with a gasoline service station; and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1958 when, under BSA Cal. No. 373-57-BZ, the Board granted an application for the construction of a gasoline service station with accessory uses and parking for cars awaiting service; and

WHEREAS, subsequently, the term has been extended

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and the grant amended by the Board at various times, most recently on May 25, 1999, under the subject calendar number, for a term of ten years from the expiration of the prior grant, expiring on July 3, 2005; and

WHEREAS, the applicant now seeks an extension of term for ten years; and

WHEREAS, at hearing, the Board asked the applicant to remove on-site trailers that were not on the BSA-approved plans; and

WHEREAS, the applicant provided photographs of the site with the trailers removed; and

WHEREAS, additionally, the Board asked the applicant if the curb cut on East 59th Street could be removed; and

WHEREAS, the applicant responded that because East 59th Street is a one-way street, the curb cut must be maintained in order to provide better circulation and access at the site; and

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

WHEREAS, accordingly, 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 waives the Rules of Practice and Procedure and *reopens and amends* the resolution, as adopted on May 25, 1999, as subsequently extended and amended, 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 July 3, 2015, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received May 3, 2006’–(3) sheets and ‘June 23, 2006’–(2) sheets, and *on further condition*:

THAT the term of this grant shall be for ten years from the expiration of the prior grant, to expire on July 3, 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 DOB shall review and approve the layout of the onsite parking;

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.”

(NB 300539567)

Adopted by the Board of Standards and Appeals, July 11, 2006.

45-90-BZ

APPLICANT – Walter T. Gorman, P.E., for Red Hook Land LLC, owner; Red Hook Service Station LLC, lessee.

SUBJECT – Application December 20, 2004 – Extension of Time/Waiver – To complete construction and secure a new Certificate of Occupancy.

PREMISES AFFECTED – 260 Hamilton Avenue, northeast corner of Henry Street, Block 527, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES – None.

ACTION OF THE BOARD – Application dismissed for lack of prosecution.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

THE VOTE TO DISMISS –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

THE RESOLUTION:

WHEREAS, the subject application as originally filed sought an extension of time to complete construction and obtain a new certificate of occupancy for a building authorized by the Board under a prior variance; and

WHEREAS, the prior variance was granted on February 25, 1992, and permitted a gasoline service station in a C2-3(R5) zoning district; this grant was subsequently extended and modified at various times, the last being July 16, 2002, when the Board allowed an amendment to enlarge the convenience store and office at the site; and

WHEREAS, the application was filed on December 20, 2004 by Walter T. Gorman, P.E. as the applicant; and

WHEREAS, subsequent to the filing, the Board’s examination staff was informed by Mr. Gorman’s office that he would not longer be prosecuting the application; and

WHEREAS, no new applicant has been authorized to prosecute the subject application; and

WHEREAS, the Board placed the matter on the calendar for a dismissal hearing; and.

WHEREAS, a notice of this hearing was then sent to the applicant on May 13, 2005; and

WHEREAS, because of the lack of prosecution of this application, it must be dismissed in its entirety.

Therefore it is Resolved that the application filed under BSA Cal. No. 45-90-BZ is hereby dismissed for lack of prosecution.

Adopted by the Board of Standards and Appeals, July 11, 2006.

71-93-BZ

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

SUBJECT – Application May 11, 2006 – Amendment to a previously granted Variance ZR §72-21 to construct an additional single family residence on one zoning lot that has been sub-divided into two tax lots. The proposed application

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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

APPEARANCES –

For Applicant: Paul Bonfilio

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

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 an additional single family residence on one zoning lot that has been sub-divided into two tax lots; and

WHEREAS, a public hearing was held on this application on June 13, 2006, after due notice by publication in *The City Record*, and then to decision on July 11, 2006; and

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

WHEREAS, Community Board 7, Queens, and the Queens Borough President recommended conditional approval of this application; and

WHEREAS, the subject site is a 7,459 sq. ft. lot, with frontage on Bayside and 29th Avenues, and 154th Street; and

WHEREAS, the lot is trapezoidal-shaped, with four frontages and a length ranging from 299.59 to 308.25 feet and a depth ranging from 14.28 to 41.61 feet; and

WHEREAS, on February 1, 1994, the Board granted an application under ZR §72-21, to permit the construction of a single-family dwelling on the west side of the lot that did not provide the requisite two front yards; and

WHEREAS, subsequently, on August 19, 2005, the Board approved by letter of no objection, an amendment which allowed for the subdivision of the lot into two tax lots; and

WHEREAS, the applicant proposes to construct a second two-story single-family home on the second tax lot, lot 27; the first two-story single-family home, built under the subject calendar number is on tax lot 25; and

WHEREAS, the new dwelling will provide one front yard of 2'-0" and one front yard of 1'-6" (two front yards of 15 ft. are the minimum required); and

WHEREAS, the new dwelling will have 2,177.5 sq. ft. of floor area; the proposed total floor area of the two houses on the zoning lot is 3,786 sq. ft.; and

WHEREAS, the applicant represents that the proposal would increase the residential FAR on the lot from .175 to .46 (.50 is the maximum permitted); and

WHEREAS, the Board notes that the site, with the first home alone, is significantly underdeveloped; and

WHEREAS, the applicant submits that with this request, the total floor area, side yards, and open space area are still

within the parameters originally approved by the Board; and

WHEREAS, the applicant does not seek any other waivers; and

WHEREAS, the Board notes that the relief sought for the development of the newly-formed tax lot is the same as for the development of the original zoning lot; and

WHEREAS, the Board also notes that the shape of the lot compromises complying development of the new dwelling, just as it compromised construction of the prior dwelling; and

WHEREAS, the Board concludes that the proposed dwelling does not affect the prior findings that the first home was compatible with the neighborhood character and that the relief granted was the minimum necessary; 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 February 1, 1994, so that as amended this portion of the resolution shall read: "to permit the construction of a second two-story single-family home on the zoning lot which does not comply with the front yard requirement; *on condition* that all work shall substantially conform to drawings filed with this application and marked 'Received May 11, 2006'-(9) sheets; and *on further condition*:

THAT the entire site, with both homes, shall have a total FAR of .46, and a total of 3,486 sq. ft. of floor area;

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, July 11, 2006.

200-24-BZ

APPLICANT – Stephen Ely, for Ebed Realty c/o Ruben Greco, owner.

SUBJECT – Application May 11, 2006 – Pursuant to Rules of Practice and Procedure to reopen and amend the resolution for the Extension of Time to Obtain a Certificate of Occupancy, for a bookstore and distribution, which expired on April 12, 2006.

PREMISES AFFECTED – 3030 Jerome Avenue, aka 3103 Villa Avenue, 161.81' south of East 204th Street, Block 3321, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #7BX

APPEARANCES –

MINUTES

For Applicant: Stephen Ely

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to July 25,
2006, at 10 A.M., for decision, hearing closed.

499-29-BZ, Vol. III

APPLICANT – Eric Palatnik, P.C., for Spartan Petroleum,
owner; BP Products, lessee.

SUBJECT – Application March 3, 2006 – Application for the
Extension of Term of an Automotive Service Station with an
accessory automotive repair establishment located in a C1-
2/R3-2 zoning district. The term expired on March 23, 2006.

The application is seeking a 10 year extension.

PREMISES AFFECTED – 248-70 Horace Harding
Expressway, southwest corner of Marathon Parkway, Block
8276, Lot 660, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eric Palatnik

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to August 8,
2006, at 10 A.M., for decision, hearing closed.

739-76-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Cord Meyer
Development Co., owner; Peter Pan Games of Bayside,
lessee.

SUBJECT – Application May 4, 2006 – Reopening for an
extension of term of a special permit pursuant to ZR §73-03
to permit an existing shopping center, the conversion of a
retail store to an amusement arcade.

PREMISES AFFECTED – 212-95 26th Avenue, 26th Avenue
and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Joseph P. Morsellino

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to July 25,
2006, at 10 A.M., for decision, hearing closed.

129-93-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Town
Sports International, Inc., owner.

SUBJECT – Application September 21, 2004 – Pursuant to
ZR 73-11 to re-open and amend the BSA resolution for the
Extension of Term of a Physical Culture Establishment (New
York Sports Club) and an Amendment to legalize
modifications to the interior layout located in a five-story and
cellar commercial building. This companion to BSA Cal.
130-93-BZ.

PREMISES AFFECTED – 151-155 East 86th Street, north
side of East 86th Street, 62' east of Lexington Avenue, Block
1515, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to August 22,
2006, at 10 A.M., for continued hearing.

130-93-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 161
East 86th Street, LLC, owner; TSI East 86th Street, Inc.,
lessee.

SUBJECT – Application September 21, 2004 – Pursuant to
ZR 73-11 to re-open and amend the BSA resolution for the
Extension of Term of a Physical Culture Establishment (New
York Sports Club) which occupies the fifth floor and
mezzanine of a five-story commercial building. This
Application is also seeking an Amendment to legalize the
expansion in floor area of the P.C.E. into the third and fourth
floors of the commercial building. This is companion to BSA
Cal. 129-93-BZ.

PREMISES AFFECTED – 157-161 East 86th Street, north
side of East 86th Street, 139' of Lexington Avenue, Block
1515, Lot 26, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to August 22,
2006, at 10 A.M., for continued hearing.

173-95-BZ

APPLICANT – Stephen J. Rizzo, Esq., for 80 East 85th Street
Company, owner; David Barton Gym Corp., lessee.

SUBJECT – Application March 10, 2006 – Pursuant to ZR
73-11 & 73-36 for the Extension of Term/Waiver of a
Physical Culture Establishment (David Barton Gym) in a
portion of the first floor and the entire second floor of a 30
story residential building.

PREMISES AFFECTED – 30 East 85th Street, Madison
Avenue and East 85th Street, Block 1496, Lot 7501, Borough
of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Stephen J. Rizzo.

MINUTES

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to August 8, 2006, at 10 A.M., for decision, hearing closed.

132-97-BZ/24-06-A

APPLICANT – Alan R. Gaines, Esq., for Deti Land, LLC, owner; Fiore Di Mare LLC, lessee.

SUBJECT – Application June 7, 2005 and January 3, 2006 – Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district. Proposed legalization of four on-site parking spaces for an eating and drinking establishment (Fiore Di Mare) located in the bed of a mapped street, is contrary to Section 35 of the General City Law.

PREMISES AFFECTED – 227 Mansion Avenue, Block 5206, Lot 26, Borough of Staten Island.

COMMUNITY BOARD# 3SI

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to July 25, 2006, at 10 A.M., for deferred decision.

83-00-BZ

APPLICANT – Eric Palatnik, P.C., for KFC US Properties, Inc., owner.

SUBJECT – Application September 21, 2005 – Reopening for a waiver of the Rules of Practice and Procedure and for an extension of the term of special permit which expired September 26, 2003.

PREMISES AFFECTED – 87-11/21 Northern Boulevard, northern corner of 88th Street, Block 1417, Lot 36, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik and Leo Viana.

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to August 8, 2006, at 10 A.M., for continued hearing.

324-01-BZ

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

SUBJECT – Application December 8, 2005 - Amendment to

a previously granted Variance ZR §72-21 to allow the conversion of three floors in a commercial building to residential use.

PREMISES AFFECTED – 1077 Bay Street, Block 2825, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Josh Rinesmith

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to July 25, 2006, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

231-04-A

APPLICANT – Joseph P. Morsellino, Esq., for Chris Babatsikos and Andrew Babatsikos, owners.

SUBJECT – Application June 17, 2004 – Proposed one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 240-79 Depew Avenue, corner of 243rd Street, Block 8103, Lot 5, Borough of Queens.

COMMUNITY BOARD#11Q

APPEARANCES –

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated June 14, 2004, acting on Department of Buildings Application No. 401948960, reads, in pertinent part:

“Respectfully request permission to build the proposed building in a bed of a mapped street.”; and

WHEREAS, this is an application made pursuant to General City Law 35, to permit the construction of a conforming single-family dwelling that will encroach into a portion of the bed of a mapped but unbuilt street; and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in the *City Record*, with continued hearings on December 6, 2005, January 24, 2006, February 14, 2006, March 7, 2006, April 4, 2006, May 16, 2006, June 20, 2006, and then to decision on July 11, 2006; and

WHEREAS, Chair Srinivasan and Vice-Chair Babbar visited the site; and

WHEREAS, Community Board 11, Queens, the local council member, the local civic association, and certain neighbors (collectively, the “opposition”), opposed this

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application for reasons discussed below; and

WHEREAS, the subject premises is an approximately 9,500 sq. ft. lot, which extends 40 ft. into a mapped but unbuilt portion of Depew Avenue (this 40 ft. portion is hereinafter referred to as the "Widening"); and

WHEREAS, Depew Avenue dead ends near the east property line of the subject premises; from the dead end, there is a slope down to 243rd Street, which runs perpendicular to Depew; and

WHEREAS, the owner of the premises initially proposed to build a home that would have extended 20 ft. into the Widening; and

WHEREAS, however, by letter dated September 21, 2005, the Department of Transportation stated that the proposed construction would interfere with DOT's proposal to construct a step street and ramp, connecting Depew Avenue with 243rd Street; and

WHEREAS, at the request of the Board, DOT provided further information regarding this proposal, including a diagram of the steps and ramp and a Capital Project number; and

WHEREAS, the diagram showed that the steps and ramp would occupy the entire 40 ft. of the owner's property that extends into the Widening; and

WHEREAS, the applicant stated that DOT would be required to condemn this portion of the owner's property in order to build the steps and ramp; and

WHEREAS, at the urging of the Board, DOT modified its proposal; and

WHEREAS, specifically, in a letter dated July 7, 2006, DOT indicates that it is now not proposing to improve Depew to its full width in this location; and

WHEREAS, however, DOT asked that the applicant make some modifications to its proposal; and

WHEREAS, specifically, the applicant revised its proposal to reflect a five foot sidewalk extended to the front of the site, and then along the front of the site from a distance of 28 feet with a dropped curb at the driveway; this plan is acceptable to DOT; and

WHEREAS, the other interested City agencies did not have any objection to this application; and

WHEREAS, specifically, by letter dated June 30, 2004, the Fire Department states that it has reviewed the proposal and has no objection; and

WHEREAS, further, by letter dated September 14, 2004, the Department of Environmental Protection states that it has reviewed the proposal and has no objection; and

WHEREAS, during the course of the hearing process, the opposition made the following arguments in support of their contention that the application should not be granted: (1) the proposed construction is near a wetland estuary, and would negatively affect it; (2) a tree on the property that would need to be removed in order to construct the proposed dwelling is non-removable due to a deed restriction; (3) the steep slope on the site would have to be filled in, which would affect parkland at the bottom of the slope; (4) the area is adjacent to the Long Island Railroad; and (5) the proposed construction would

interfere with an easement; and

WHEREAS, the Board has reviewed these arguments and the applicant's response to them, and finds that none are persuasive, particularly since the only relief applied for through the instant application is the ability to build in a portion of Depew Avenue; and

WHEREAS, the proposed dwelling must conform in all respects to applicable zoning provisions, and all other laws and regulations, including those related to development near wetlands, parks, and transportation right of ways; and

WHEREAS, further, disputes as to any applicable deed restrictions or easements and any impact the proposed construction might have on them may be resolved in another forum; the Board is not the venue for such disputes; and

WHEREAS, based upon the above, the Board finds that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated June 14, 2004, acting on Department of Buildings Application No. 401948960, is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received July 5, 2006"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT 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, July 11, 2006.

372-05-BZY & 373-05-BZY

APPLICANT – Adam Rothkrug, for Woodrow Estates North LLC, owner.

SUBJECT – Application December 27, 2005 – Proposed extension of time to renew building permits and complete construction of a development pursuant to Z.R. §11-332. Prior R4 Zoning District. Current R3-A (HS) Zoning District.

PREMISES AFFECTED – 28 Webster Avenue (aka 101 Stanley Avenue) Block 111, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

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ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

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, two three-family dwellings 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 buildings, in the interest of convenience, it heard the cases together and the record is the same for both of the applications; and

WHEREAS, a public hearing was held on this application on May 9, 2006, after due notice by publication in *The City Record*, with a continued hearing on June 13, 2006 and then to decision on July 11, 2006; and

WHEREAS, Community Board 1, Staten Island, recommends approval of this application on the condition that construction be completed within six months; and

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

WHEREAS, the subject premises is located on the west side of Webster Avenue, north of Stanley Avenue; and

WHEREAS, the premises are currently located within an R3A (HS) zoning district, but were formerly located within an R4 zoning district; and

WHEREAS, the development complies with the former R4 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 sites to R3A; and

WHEREAS, as of that date, foundation construction progressed, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows the Board to determine that construction may continue under such circumstances; and

WHEREAS, the Board made its initial determinations as to the two applications on May 11, 2004; 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 § 11-332; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as the proposed development, 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, previously authorized under a grant for an extension made pursuant to ZR § 11-331, 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 date 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, 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 and substantial expenditures were incurred; and

WHEREAS, the applicant states that work on the proposed buildings subsequent to the issuance of the permits resulted in fully-constructed foundations and partial completion of the first floor above grade, comprising 30 percent of the total required construction work; and

WHEREAS, in support of this statement the applicant has submitted the following: photographs of both lots, showing partial completion above grade, and financial transaction statements; 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 permits; and

WHEREAS, the applicant represents that the following work remains to be done: general masonry and brick construction, and finishing, including the installation of the upper floors, doors, and windows; and

WHEREAS, the Board notes that the actual completion of physical construction is substantial in itself, in that it resulted in tangible above-grade construction; and

WHEREAS, in response to the Community Board’s concern that construction be completed within six months, the

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Board asked the applicant about whether this timeframe could be complied with; and

WHEREAS, the applicant responded that construction could be completed within six months, but that two additional months would be needed to obtain the certificate of occupancy; and

WHEREAS, as to costs, the applicant represents that the total expenditure paid is \$137,544 and remaining costs are approximately \$250,000; in support of this claim, the applicant has submitted a financial transaction statement; and

WHEREAS, the applicant contends that this percentage constitutes a substantial expenditure sufficient to satisfy the finding in ZR § 11-332; 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 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 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 a nine-month extension for completion of construction, pursuant to ZR §11-332.

Therefore it is Resolved that this application made pursuant to ZR §11-332 to renew Building Permit Nos. 500650137 and 500650128, 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 development for one term of nine months from the date of this resolution, to expire on April 11, 2007; an additional six months is permitted to obtain a certificate of occupancy, to expire on October 11, 2007.

Adopted by the Board of Standards and Appeals, July 11, 2006.

134-05-A

APPLICANT – Rothkrug, Rothkrug, Weinberg, Spector, LLP for Gaspare Colomone, owner.

SUBJECT – Application May 31, 2005 – Proposed construction of a three dwellings, which lies in the bed of a mapped street (67th Street) which is contrary to Section 35 of the General City Law.

PREMISES AFFECTED – 53-31 67th Street, 53-33 67th Street, and 67-02 53rd Road, Block 2403, Lot 117, 217, 17, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Eric Palatnik

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to July 25, 2006, at 10 A.M., for decision, hearing closed.

299-05-A

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

SUBJECT – Application October 4, 2005 – Proposal to build one, two story, one family home which lies in the bed of a mapped street (Getz Avenue), which is contrary to Section 35 of the General City Law, Borough of Queens.

PREMISES AFFECTED – 369 Wilson Avenue, north side of Wilson Avenue between Eltingville Boulevard and Ridgewood, Block 5507, Lot 13, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Zara F. Fernandes.

ACTION OF THE BOARD – Laid over to July 11, 2006, at 10 A.M., for continued hearing.

364-05-A & 365-05-A

APPLICANT – Sheldon Lobel, P.C., for Hamida Realty, Inc., owner.

SUBJECT – Application December 19, 2005 – An appeal seeking a determination that that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior R5 zoning district. Current Zoning District is R4A.

PREMISES AFFECTED – 87-30 and 87-32 167th Street, 252’ north of the corner formed by the intersection of Hillside Avenue and 167th Street, Block 9838, Lots 114 and 116, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES – Josh Rinesmith.

ACTION OF THE BOARD – Laid over to July 11, 2006, at 10 A.M., for adjourned hearing.

Jeffrey Mulligan, Executive Director

Adjourned: 1:00 P.M.

**REGULAR MEETING
TUESDAY AFTERNOON, JULY 11, 2006
1:30 P.M.**

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

ZONING CALENDAR

260-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for

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Leewall Realty by Nathan Indig, owner.
SUBJECT – Application July 20, 2004 – under Z.R. §72-21 to permit the proposed construction of a four story, penthouse and cellar three-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 222 Wallabout Street, 64’ west of Lee Avenue, Block 2263, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3
Negative:.....0

Adopted by the Board of Standards and Appeals, July 11, 2006.

262-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Tishrey-38 LLC by Malka Silberstein, owner.

SUBJECT – Application July 22, 2004 – under Z.R. §72-21, to permit the proposed construction of a four story, penthouse and cellar four-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 218 Wallabout Street, 94’ west of Lee Avenue, Block 2263, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3
Negative:.....0

Adopted by the Board of Standards and Appeals, July 11, 2006.

100-05-BZ

APPLICANT – Martyn & Don Weston, for 223 Water Street, LLC, owner.

SUBJECT – Application April 25, 2005 – under Z.R. §72-21 to permit the proposed conversion of the second and third floors, of a six story manufacturing building, to residential use, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 223 Water Street, a/k/a 48 Bridge Street, northwest corner, Block 31, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Don Weston.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and

Commissioner Collins.....3
Negative:.....0

Adopted by the Board of Standards and Appeals, July 11, 2006.

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 Z.R. §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 Z.R. §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: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT:

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 23, 2006, 2006, acting on Department of Buildings Application No. 104013781, reads, in pertinent part:

“The proposed residential use within M1-5 district is not permitted. [ZR 42-00]

Proposed new building is located within area B2 of TMU special district, . . . residential use below third floor is not permitted per this section. [ZR 111-04 (d)] Portion of building penetrates the sky exposure plane.

As per this section for narrow street 20’ setback is required after 85 feet or six stories. [ZR 43-43]

Proposed number of parking spaces is not permitted per ZR 13-12.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-5 zoning district, a nine-story residential building with eight accessory parking spaces in the cellar level and seven dwelling units on the upper floors, which is contrary to ZR §§ 42-00, 111-104(d), 43-43, and 13-12; and

WHEREAS, the proposed building will have a total Floor Area Ratio (FAR) of 5.0, and a residential FAR of 5.0, a 89’-1” street wall, a maximum of 111’-2” in total height without bulkheads, and a maximum of 121’-3” in total height with bulkheads; and

WHEREAS, a public hearing was held on this application on May 2, 2006, after due notice by publication in the *City Record*, with a continued hearing on June 6, 2006, and

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then to decision on July 11, 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 1, Manhattan, recommends approval of the application on condition that the FAR of the proposed building be limited to 5.0; and

WHEREAS, the subject premises is located on the south side of Vestry Street, 100 feet west of Hudson Street, and has 5,306 sq. ft. of lot area; and

WHEREAS, the site is located within an M1-5 zoning district within Area B2 of the Special Tribeca Mixed Use District, and also the Tribeca North Historic District; and

WHEREAS, the site is currently occupied by a parking lot; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site is small and vacant; and (2) the site is burdened with a high water table and is within the Canal Street flood plain; and

WHEREAS, the applicant submitted a 400 ft. radius diagram and a land use map of the area which illustrate that the site is one of only two vacant parcels of the 52 sites reflected on the radius diagram; and

WHEREAS, the applicant also notes that the subject lot is relatively narrow and that other smaller lots within the diagram are already developed with either multiple dwellings or pre-existing commercial buildings; and

WHEREAS, the Board observes that there is only one other vacant site within the 400-ft. radius; and

WHEREAS, as to the subsurface conditions, the applicant represents that additional foundation costs arise due to the high water table; and

WHEREAS, the applicant supported this statement with a letter prepared by its engineering consultant indicating that test borings from the site indicate water levels are between 12 and 15 feet below grade; and

WHEREAS, the Board has reviewed this claim and the evidence submitted in support of it, and agrees that said condition leads to increased construction costs in developing the site with a conforming development; and

WHEREAS, additionally, the Board agrees that other sites in the area that may have similar subsurface and physical conditions are already developed or could be enlarged as-of-right; and

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

WHEREAS, the applicant initially submitted a feasibility study analyzing an as of right commercial/office building, with an FAR of 5.0; and

WHEREAS, the applicant concluded that such a scenario

would result in a loss, due to the size of the lot, as well as premium construction costs related to the subsurface conditions; and

WHEREAS, however, the Board had concerns regarding certain aspects of this study, and identified them at hearing; and

WHEREAS, specifically, the Board questioned: (1) the actual amount of the premium construction costs related to the identified hardships; (2) the claimed overall construction costs; (3) the comparables uses to establish the sell-out price of the condominium units; and

WHEREAS, the applicant, in subsequent submissions, satisfactorily addressed each of these concerns; and

WHEREAS, specifically, the applicant: provided more detailed information about the premium construction costs, and eliminated certain costs as hardship costs; established that the overall construction costs per square foot was comparable to other similar construction projects, and also updated these costs; and revised the site valuation comparables, per the Board's instruction; and

WHEREAS, based upon its review of the subsequent submissions of the applicant, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed 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 immediate area is a mix of residential and commercial uses, with some remaining manufacturing/industrial uses; and

WHEREAS, the applicant notes that the proposed residential use is consistent with the character of the area, which includes many other residential uses, some of which occupy the subject block; and

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

WHEREAS, based upon its review of the submitted land use map and its inspection, the Board agrees that the character of the area has become residential, and finds that the introduction of seven dwelling units and eight accessory parking spaces will not impact nearby conforming uses nor negatively affect the area's character; and

WHEREAS, the applicant states further that the area around the subject premises permits as-of-right conversion of upper floors of existing buildings to residential use; and

WHEREAS, the Board notes that the Department of City Planning accepts applications for residential conversions on all floors within the area; and

WHEREAS, the Board asked the applicant to examine retail use on the first floor; and

WHEREAS, the applicant responded that due to the history of manufacturing development on Vestry Street, retail

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uses were not permitted and do not exist today; thus, the street would not support such a use; and

WHEREAS, the applicant also states that the eight parking spaces will replace an existing parking lot with more than 25 spaces, thereby lessening traffic impact; and

WHEREAS, as to the height and massing, the applicant states that the proposed building would be similar in height to existing loft-style buildings in the neighborhood; and

WHEREAS, because the site is located in the Tribeca North Historic District, the applicant made an application to, and received approval and a Certificate of Appropriateness, dated September 20, 2005, from the Landmarks Preservation Commission for the proposed design; and

WHEREAS, the Board observes that the proposed street wall is equal in height to a portion of the street wall of the adjacent building at 35 Vestry Street and the adjacent building located around the corner at 169 Hudson Street and is comparable or lower in height to other buildings located across Vestry Street; and

WHEREAS, the applicant notes that the proposed building complies with all of the bulk controls applicable in an R7X zoning district aside from maximum base height, setback, and parking.

WHEREAS, the Board further notes that the proposed total height of 121'3" does not exceed the maximum building height of the R7X zoning district that limits residential buildings to 125 feet in height; and

WHEREAS, based upon its review of submitted maps and photographs and its inspection, the Board agrees that the proposed building's height and FAR are consistent with other buildings in the neighborhood; 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 applicant states, and the Board agrees, that the return associated with the proposed building represents the minimum variance; and

WHEREAS, the Board observes that the proposed building of seven dwelling units is limited in scope and compatible with nearby development; and

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

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

WHEREAS, in addition, the applicant asserts that the parking waiver request meets the requirements of ZR § 13-561 under which the City Planning Commission may permit such parking if "(a) such parking spaces are needed for, and will be used by, the occupants, visitors . . . of the use to which they are accessory; (b) within the vicinity of the site, there are insufficient parking spaces available; (c) the facility will not

create or contribute to serious traffic congestion nor will unduly inhibit vehicular and pedestrian movement; (d) the facility is so located as to draw a minimum of vehicular traffic to and through local residential streets; and (e) adequate reservoir space is provided . . ."; and

WHEREAS, the applicant notes that the eight parking spaces allow for one accessory space per residential condominium unit with an additional handicapped-accessible space; and

WHEREAS, the applicant represents that there are an insufficient number of parking spaces within the vicinity of the site and that the facility is located so as to draw a minimum of vehicular traffic to and through residential streets; and

WHEREAS, further, the applicant represents that the small parking facility will not create or contribute to serious traffic congestion nor will it unduly inhibit vehicular and pedestrian movement as it replaces a parking lot with more than 25 spaces; and

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

WHEREAS, the subject site is located within the Tribeca North Historic District and as previously noted in this resolution, a COA has been issued for this proposal by the LPC on September 20, 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. 06BSA020M, dated April 5, 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; and

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 M1-5 zoning district, a nine-story residential building with eight accessory parking spaces in the cellar level and seven dwelling units on the upper floors, which

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is contrary to ZR §§ 42-00, 111-104(d), 43-43, and 13-12, *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” -(13) sheets; “Received May 23, 2006” -(2) sheets, and “Received July 10, 2006” -(1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: nine stories, seven residential units, a maximum of 111’-2” in total height (without bulkheads), a maximum of 121’-3” in total height (with bulkheads), an 89’-1” street wall, a total FAR of 5.0, and a residential FAR of 5.0;

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, July 11, 2006.

349-05-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for Church of the Resurrection, owner.

SUBJECT – Application December 8, 2005 – Zoning Variance (bulk) pursuant to Z.R. §72-21 – to allow a proposed eight (8) story residential building with community facility use on the 1st and 2nd floors in an R7A Zoning District; contrary to Z.R. §23-145.

PREMISES AFFECTED – 325 East 101st Street, between First and Second Avenues, Block 1673, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Chris Wright.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 7, 2006, acting on Department of Buildings Application No. 10426593, reads, in pertinent part:

“Proposed floor area exceeds 4.0 FAR permitted under Section 23-145 of the ZR.

Proposed lot coverage exceeds 65% permitted under Section 23-145 of the ZR.

Proposed 2nd floor is not permitted rear yard obstruction under Section 24-33 ZR.”; and

WHEREAS, this is an application under ZR § 72-21, to

permit, on a site within an R7A zoning district, a proposed eight-story residential building with community facility use on the first and second floors, which does not comply with the maximum floor area ratio (“FAR”), lot coverage, and rear yard; and is contrary to ZR §§ 23-145 and 24-33; and

WHEREAS, the application is brought on behalf of the Church of the Resurrection (hereinafter, the “Church”); and

WHEREAS, the first- and second-floor community facility space will be occupied by the Church and an elementary school operated by the Church and the third through eighth floors will be occupied by 35 dwelling units; and

WHEREAS, the applicant proposes to construct an eight-story building with a residential floor area of 35,552 sq. ft., a community facility floor area of 12,432 sq. ft., and a total floor area of 47,984 sq. ft. (34,516 sq. ft. is the maximum permitted), a total FAR of 5.56 (4.0 is the maximum permitted), and a lot coverage of 87 percent at the second floor and 70 percent at the third through sixth floors (65 percent is the maximum permitted); and

WHEREAS, the proposed building’s first story will extend from the street line to a depth of 100’-1 ½”, the second story will extend from the street line to a depth of 87’-1 ½”, the third through sixth stories will extend from the street line to a depth of 70’-1 ½”, and the seventh and eighth floors will set back 15 ft. in the front and extend from the street line to a depth of 70’-1 ½”; and

WHEREAS, a public hearing was held on this application on April 4, 2006, after due notice by publication in the *City Record*, with a continued hearing on June 6, 2006, and then to decision on July 11, 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, and Commissioner Collins; and

WHEREAS, Community Board 11, Manhattan, recommends disapproval of the application because it does not support the development of market rate housing on the site; and

WHEREAS, the subject premises is located on East 101st Street between First and Second avenues; and

WHEREAS, the lot is 85’-7” wide and 100’-1 ½” deep and has a total area of 8,629 sq. ft.; and

WHEREAS, the site is currently improved upon with a two-story church building that will be demolished; 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 bedrock is located at a depth of 100 ft. from the surface; (2) the soil above the bedrock has poor load-bearing capacity; and (3) ground water is 8’-3” below grade; and

WHEREAS, the applicant submitted boring tests to substantiate these assertions; and

WHEREAS, the report accompanying the boring tests recommends that due to these conditions, any new building must be constructed on a series of deep piles, even though the piles cannot be anchored on bedrock due to the bedrock’s depth at the site; and

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WHEREAS, additionally, the applicant represents that due to the discovery that there is a silt layer in one area, some of the piles will need to be deeper than originally anticipated; and

WHEREAS, the applicant examined the underground soil conditions within a 400-foot radius and found that they vary widely, but that few have as many conditions that might lead to flooding as the subject site; and

WHEREAS, specifically, the applicant represents that due to the proximity of two flood plains and the City's Coastal Zone, a cellar will likely be at risk of flooding; and

WHEREAS, accordingly, no cellar can be provided; and

WHEREAS, the Board notes that the current proposal results in an FAR of 5.56; since a cellar cannot be provided, the first floor of community facility use must be at grade and counted as floor area; and

WHEREAS, as to lot coverage, in order to accommodate the allowable floor area within the R7A contextual zoning district building envelope (i.e. to avoid violating maximum height limitations), the lot coverage is 87 percent at the second floor and 70 percent at floors three through six; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant provided a financial analysis for a complying 4.0 FAR development and found that it did not result in a reasonable rate of return; and

WHEREAS, the applicant concluded that a complying scenario would not result in a reasonable return primarily because of high construction costs related to cellar construction, as well as additional incremental costs related to the foundation system, all of which relates to the above-mentioned soil and bedrock conditions; and

WHEREAS, at hearing, the Board requested a detailed analysis reflecting costs related to the subsurface conditions and the inability to provide a cellar; and

WHEREAS, the applicant submitted a financial analysis detailing the additional costs associated with the subsurface conditions; and

WHEREAS, based upon its review of the applicant's financial studies, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning requirements will provide a reasonable return; and

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

WHEREAS, the applicant states that the site is located in an R7A zoning district that extends in the mid-blocks from East 99th to East 106th Streets, and that First and Second avenues are zoned R8A; and

WHEREAS, the applicant represents that the proposed project is considerably smaller in scale than adjacent

developments, with the subject block dominated by an 11-story residential complex; and

WHEREAS, additionally, other buildings on the block are in excess of ten stories and have more than 200 units each; and

WHEREAS, the applicant submitted photographs and a 400-ft. radius diagram to support these assertions; and

WHEREAS, the Board also observes that while the proposal requests additional FAR, the bulk is accommodated within the R7A contextual envelope, which minimizes any potential visual impact; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the unique physical characteristics of the site; and

WHEREAS, the Board does not regard these conditions to be a self-created hardship; and

WHEREAS, initially, the applicant submitted a lesser-variance proposal of a 5.0 FAR building and determined that it was not financially viable; and

WHEREAS, at hearing, the Board asked the applicant to submit an analysis of a proposal that included a cellar that did not go below the water table, thus eliminating some of the increased construction costs while still decreasing the amount of total FAR; and

WHEREAS, the applicant explored a 4.0 FAR scenario with a cellar, and concluded that such a scenario was not feasible because of the substantial increase in construction costs related to building below grade and affecting the water table; and

WHEREAS, the applicant also analyzed a scenario with a basement which avoids construction below the water table and determined that the added costs for stairs and ramps would realize an even smaller return than the modest return for the proposal, and still not eliminate the need for the FAR waiver; and

WHEREAS, accordingly, the Board finds that the subject 5.56 FAR proposal is the minimum necessary to afford the owner relief; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA040M, dated December 8, 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;

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as 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 R7A zoning district, a proposed eight-story residential building with community facility use on the first and second floors, which is contrary to ZR §§ 24-145 and 24-33, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 27, 2006"- five (5) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum of eight stories, a residential floor area of 35,552 sq. ft., a community facility floor area of 12,432 sq. ft., and a total floor area of 47,984 sq. ft., a total FAR of 5.56, a street wall height of 60 ft., total height of 80 ft., and a front setback of 15 ft. from a height of 60 ft., a rear setback of 30 ft. from a height of 19 ft., and lot coverage of 87 percent at the second floor and 70 percent at the third through sixth floors, all 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, July 11, 2006.

290-04-BZ

APPLICANT – Stuart A. Klein, Esq., for Alex Lokshin – Carroll Gardens, LLC, owner.

SUBJECT – Application August 20, 2004 – under Z.R. §72-21 to permit, in an R4 zoning district, the conversion of

an existing one-story warehouse building into a six-story and penthouse mixed-use residential/commercial building, which is contrary to Z.R. §§22-00, 23-141(b), 23-631(b), 23-222, 25-23, 23-45, and 23-462(a).

PREMISES AFFECTED – 341-349 Troy Avenue (a/k/a 1515 Carroll Street), Northeast corner of intersection of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Stuart A. Klein.

ACTION OF THE BOARD – Laid over to September 12, 2006, at 1:30 P.M., for continued hearing.

328-04-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for Rockaway Improvements, LLC, owner.

SUBJECT – Application October 5, 2004 – Variance Z.R. §72-21 to permit the proposed construction of a six story residential building, with twelve dwelling units, Use Group 2, located in an M1-1 zoning district, does not comply with zoning requirements for use, bulk and parking provisions, is contrary to Z.R. §42-00, §43-00 and §44-00.

PREMISES AFFECTED – 110 Franklin Avenue, between Park and Myrtle Avenues, Block 1898, Lots 49 and 50, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Chris Wright.

For Opposition: Charles O'Connor.

ACTION OF THE BOARD – Laid over to September 12, 2006, at 1:30 P.M., for continued hearing.

334-04-BZ

APPLICANT – Sheldon Lobel, P.C., for L & L Realty, owner. Great Roosevelt Plaza Corporation, lessee.

SUBJECT – Application October 8, 2004 – Variance Z.R. §72-21 to permit the proposed construction of a seven-story mixed-use building containing retail, general office and community facility space. No parking will be provided. The site is currently occupied by two commercial buildings which will be demolished as part loading of the proposed action. The site is located is located in a C4-2 zoning district. The proposal is contrary to Z.R. §36-21 (Required parking), §36-62 (Required loading berth), and §33-432(Sky exposure plane and setback requirements).

PREMISES AFFECTED – 135-28 Roosevelt Avenue, Roosevelt Avenue between Prince Street and Main Street. Block 5036, Lots 26(fka 25/26), Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to August 8, 2006, at 1:30 P.M., for adjourned hearing.

132-05-BZ

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APPLICANT – Sheldon Lobel, P.C., for Sami Alboukai, 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 Z.R. §23-141, a rear yard less than the minimum per Z.R. §23-47 and a perimeter wall height greater than the maximum per Z.R. §23-31. 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.

For Opposition: Susan Klopper.

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to July 18, 2006, at 1:30 P.M., for decision, hearing closed.

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.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to August 8, 2006, at 1:30 P.M., for decision, hearing closed.

303-05-BZ

APPLICANT – Eric Palatnik, P.C., for Adoo East 102 Street Corp., owner; Aspen Fitness, lessee.

SUBJECT – Application October 12, 2005 – under Z.R. §72-21 to permit the legalization of the second floor of an existing two story commercial structure for use as a physical culture establishment. Premises is located within the R8-B zoning district.

PREMISES AFFECTED – 428 East 75th Street, between

York and First Avenues, Block 1469, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to August 8, 2006, at 1:30 P.M., for decision, hearing closed.

351-05-BZ

APPLICANT – The Law Offices of Howard Goldman/Emily Simons, Esq., for Atlas Packaging Solutions Holding Co., owner.

SUBJECT – Application December 14, 2005 – Variance ZR §72-21 to allow a proposed four (4) story residential building containing eight (8) dwelling units in an M2-1 Zoning District; contrary to Z.R. §42-00.

PREMISES AFFECTED – 146 Conover Street, south facing block of Conover Street, between King and Sullivan Streets, Block front of Conover Street, between King and Sullivan Streets. Block 554, Lot 29, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Emily Simons and Chris Wright.

For Opposition: Robinson Hernadez.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to August 22, 2006, at 1:30 P.M., for decision, hearing closed.

22-06-BZ

APPLICANT – Harold Weinberg, P.E., for Margret Riordan, owner.

SUBJECT – Application February 9, 2006 – under Z.R. §72-21 to permit the enlargement of an existing single family dwelling on a pre-existing undersized lot. The proposed enlargement increases the degree of non-compliance at the front yard, rear yard and side yards; (Z.R. §23-45, §23-47 and §23-48) the proposed enlargement also exceeds the allowable setback and is contrary to Z.R. §23-631. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 8 Gotham Avenue, between Fane Court, south side and Shell Bank Creek, Block 8883, Lot 978, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

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ACTION OF THE BOARD – Laid over to August 8, 2006, at 1:30 P.M., for decision, hearing closed.

131-05-BZ

APPLICANT – Law Office of Vincent L. Petraro, for Delco Properties, LLC, owner.

SUBJECT – Application Variance application under Z.R. § 72-21 to permit a five-story retail/banquet facility/office building of 112,137 square feet and up to 276 attended parking spaces on the two cellar levels. The site is located in a C4-3 zoning district. The proposal is contrary to Z.R. §§33-122, 33-432, 36-21, 36-62, and 32-21. The variance waivers requested relate to floor area, front wall height, number of parking spaces, number of loading berths, and the distance from a residence district. There are two existing commercial buildings on the site which will be demolished as part of the proposed action.

PREMISES AFFECTED – 72-01/72-11 Roosevelt Avenue, 37-61/69 72nd Street and 72-18 Broadway, corner of 72nd Street and Broadway, Block 1283, Lot 72, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Steven Simicich.

ACTION OF THE BOARD – Laid over to September 12, 2006, at 1:30 P.M., for continued hearing.

44-06-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for Philip & Laura Tuffnell, owners.

SUBJECT – Application March 14, 2006 – Pursuant to ZR 72-21 Variance for the vertical enlargement of an existing single family residence which exceeds the maximum permitted floor area, ZR §23-141 and does not provide the required side yard, 23-461.

PREMISES AFFECTED – 150-24 18th Avenue, South side of 18th Avenue, 215 east of intersection with 150th Street, Block 4687, Lot 43, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Adam Rothkrug and Laura Tuffnell.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to August 8, 2006, at 1:30 P.M., for decision, hearing closed.

46-06-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for West 55th Street Building, LLC, owner; Club H. NY, LLC, lessee.

SUBJECT – Application March 17, 2006 – Special Permit pursuant to Z.R. §§ 73-03 and 73-36 to allow the proposed Physical Culture Establishment on the first floor and mezzanine of the subject 12-story commercial building. The

first floor and mezzanine are currently vacant. The subject premises is located in a C6-2 zoning district within the Special Clinton District.

PREMISES AFFECTED – 423 West 55th Street, north side of West 55th Street, Block 1065, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Ellen Hay.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to July 25, 2006, at 1:30 P.M., for decision, hearing closed.

74-06-BZ

APPLICANT – Sheldon Lobel, P.C., for William Guarinello, owner.

SUBJECT – Application April 24, 2006 – Special Permit pursuant to ZR §73-622 for the enlargement of single family residence which exceeds the allowable floor area ratio, lot coverage and open space as per ZR §32-141, less than the minimum side yards as per ZR §23-461 and less than minimum rear yard as per ZR §34-47. This special permit application also purposes to convert from a one family residence to a two family residence.

PREMISES AFFECTED – 1416 80th Street, south side of 80th Street, Block 6281, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to August 8, 2006, at 1:30 P.M., for decision, hearing closed.

76-06-BZ

APPLICANT – Friedman & Gotbaum, LLP, by Shelly S. Friedman, Esq., for 150 East 58th Street, LLC/Vornado Realty, owner; Sitaras Fitness, LLC, lessee.

SUBJECT – Application April 26, 2006 – Special Permit under Z.R. §73-36 - Proposed physical cultural establishment to be located on a portion of the 11th and 12th floor of a thirty - nine story commercial building. Premises is located within an C5-2 Zoning District.

PREMISES AFFECTED – 150 East 58th Street, south side of East 58th Street, 85 feet east of the corner formed by the intersection of Lexington Avenue and East 58th Street, Block 1312, Lot 41, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Lori Cuisinier.

THE VOTE TO CLOSE HEARING –

MINUTES

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and
Commissioner Collins.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to August 8,
2006, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.