
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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160-07-BZ

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161-07-BZ

3882 Cannon Tower LLC, South side of Cannon Place at the intersection of Cannon Place and Orloff Avenue., Block 3263, Lot(s) 358, Borough of **Bronx, Community Board: 8**. Under 72-21-To permit the complete development of three attached residential dwellings.

162-07-BZ

3884 Cannon Tower LLC, South side of Cannon Place at the intersection of Cannon Place and Orloff Avenue., Block 3263, Lot(s) 258, Borough of **Bronx, Community Board: 8**. Under 72-21-To permit the complete development of three attached residential dwellings.

163-07-A

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164-07-BZ

280 Marsh Avenue, North of Platinum Avenue, west of Marsh Avenue, east of Staten Island Mall Drive., Block 2400, Lot(s) 300, Borough of **Staten Island, Community Board: 2**. (SPECIAL PERMIT)-73-36-For a proposed Physical Culture Establishment.

165-07-BZ

144 East 44th Street, On the south side of 44th Street, Block 1298, Lot(s) 45, Borough of **Manhattan, Community Board: 6**. Variance-32-655- To install an exterior sign on the west façade of the building. An obstruction by an existing adjacent building makes it impossible to comply with height restriction outlined in ZR 32-655.

166-07-BZ

213 Court Street, Between Wyckoff and Warren Streets, Block 390, Lot(s) 5, Borough of **Brooklyn, Community Board: 2**. (SPECIAL PERMIT)-73-36-To legalize a Physical Culture Establishment.

167-07-BZ

220 Amherst Street, West side 140'-0" south of Oriental Boulevard between Oriental Boulevard and the Esplanade., Block 8738, Lot(s) 62, Borough of **Brooklyn, Community Board: 15**. (SPECIAL PERMIT) -73-622-Proposed to build a two story front and two story rear enlargement.

168-07-A

1479 Rosedale Avenue, Rosedale Avenue between Mansion Street and Cross Bronx Expressway., Block 3895, Lot(s) 58, Borough of **Bronx, Community Board: 9**. Appeals-Seeks a determination that the owner of the premises acquired a common-law vested right to continue the development of an eight (8) family residential building.

169-07-BZ

626 West 254th Street, Southerly line of 254th Street, east of intersection of West 254th Street and Independence Avenue., Block 5942, Lot(s) 192, Borough of **Bronx, Community Board: 8**. Under 72-21-To permit a more narrow lot than what is legally permitted.

170-07-BZ

630 West 254th Street, Southerly line of 254th Street, east of intersection of West 254th Street and Independence Avenue., Block 5942, Lot(s) 308, Borough of **Bronx, Community Board: 8**. Under 72-21-To permit a more narrow lot than what is legally permitted.

171-07-BZ

167 Norfolk Street, Located on the east of Norfolk Street between Shore Boulevard and Oriental Boulevard., Block 8757, Lot(s) 30, Borough of **Brooklyn, Community Board: 15**. (SPECIAL PERMIT)-73-622-To allow the legalization of the enlargement of a one family residence.

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

CALENDAR

JULY 24, 2007, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 24, 2007, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1328-66-BZ

APPLICANT – Sheldon Lobel, P.C., for ACP Lincoln Garages, LLC., owner.
SUBJECT – Application June 5, 2007 – Extension of Term for a variance, originally granted under §60(3) of the Multiple Dwelling Law.
PREMISES AFFECTED – 165 West End Avenue, 100' northwest corner of West 66th Street and End Avenue, Block 1179, Lot 17, Borough of Manhattan.
COMMUNITY BOARD #7M

1330-66-BZ

APPLICANT – Sheldon Lobel, P.C., for ACP Lincoln Garages, LLC, owner.
SUBJECT – Application June 5, 2007 – Extension of Time to request a variance, originally granted under §60(3) of the Multiple Dwelling Law.
PREMISES AFFECTED – 205 West End Avenue, West 70th Street, between West End and Freedom Place, Block 1179, Lot 60, Borough of Manhattan.
COMMUNITY BOARD #7M

1332-66-BZ

APPLICANT – Sheldon Lobel, P.C., for ACP Lincoln Garages, LLC, owner.
SUBJECT – Application June 5, 2007 – Extension of Term – To request a variance, originally granted under Section 60(3) of the Multiple Dwelling Law.
PREMISES AFFECTED – 185 West End Avenue, northwest corner of West 66th Street and West End Avenue, Block 1179, Lot 50, Borough of Manhattan.
COMMUNITY BOARD #7M

247-85-BZ

APPLICANT – Francis R. Angelino, Esq., for Herald Towers, LLC, owner; TSI Herald, Inc., lessee.
SUBJECT – Application January 8, 2007 – Extension of Term/Waiver – Reopening of a special permit for a Physical Culture Establishment located in an C5-3, C6-6(MID) zoning district.

PREMISES AFFECTED – 40/60 West 34th Street, a/k/a 1282/130 Broadway, southeast corner of West 34th Street and Broadway, Block 835, Lot 1, Borough of Manhattan.
COMMUNITY BOARD #5M

84-07-A & 85-07-A

APPLICANT – Law Office of Anthony J. Tucci, for Brook Property Management, LLC, owner.
SUBJECT – Application April 18, 2007 - Proposal to build two, semi- attached, one family homes which does not front on a mapped street contrary to Article 3, §36 of the General City Law and NYC Building Code §27-291 . R3-1 Zoning District.
PREMISES AFFECTED – 12 & 14 Brook Avenue, near Hylan Boulevard, Block 4721, Lots 45 & 46, Borough of Staten Island.
COMMUNITY BOARD #2SI

149-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Edward Joyce, lessee.
SUBJECT – Application June 7, 2007 – Proposed reconstruction and enlargement of an existing single family dwelling not fronting on a mapped street contrary to Article 3, Section 36 of the General City Law and the proposed upgrade on an existing legal non-conforming private disposal system partially in the bed of the Service Road is contrary to Building Department Policy. R4 Zoning District.
PREMISES AFFECTED – 17 Roosevelt Walk, southeast corner of Roosevelt Walk and West End Avenue, Block 16350, Lot p/o 400, Borough of Queens.
COMMUNITY BOARD #14Q

JULY 24, 2007, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, July 24, 2007, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

325-06-BZ

APPLICANT – Eric Palatnik, P.C., for Escava Brothers, owners; Ludlow Fitness, lessee.
SUBJECT – Application December 15, 2006 – Special Permit (§73-36) to allow the proposed Physical Culture Establishment to be located on the second floor of the building under construction. The proposal is contrary to §32-00. C6-1 district.
PREMISES AFFECTED – 100 Delancey Street, between

CALENDAR

Ludlow Street and Essex Street, Block 410, Lot 71,
Borough of Manhattan.
COMMUNITY BOARD #1M

Lot 38, Borough of Brooklyn.
COMMUNITY BOARD #15BK

327-06-BZ

APPLICANT – Eric Palatnik, P.C., for 58th and Lex Associates, owner; Manhattan Sports Performance, LLC, lessee.

SUBJECT – Application December 20, 2006 – Special Permit (§73-36) to legalize the existing PCE located at the sixth floor in a fourteen-story plus penthouse commercial building. The proposal is contrary to §32-10. C5-2 district.

PREMISES AFFECTED – 133 East 58th Street, between Lexington and Park Avenues, Block 1313, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

Jeff Mulligan, Executive Director

53-07-BZ

APPLICANT – Wolf Block, Schorr & Solis-Cohen, LLP, for 1901 Realty Realty, LLC, owner.

SUBJECT – Application February 23, 2007 – Variance (§72-21) to permit the redevelopment and conversion of an existing three-story factory/warehouse to residential use. The proposal is contrary to §42-00. M1-1 district.

PREMISES AFFECTED – 1901 Eighth Avenue, corner of Eight Avenue and 19th Street, Block 888, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #7BK

66-07-BZ

APPLICANT – Eric Palatnik, P.C., for High Definition Fitness, Inc., owner.

SUBJECT – Application – Special Permit (§73-36) to allow a PCE on the third floor of a three-story building. The proposal is contrary to §42-31. M1-1 district.

PREMISES AFFECTED – 3038 Atlantic Avenue, between Essex and Sheperd Avenues, Block 3972, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #5BK

98-07-BZ

APPLICANT – Eric Palatnik, P.C., for Yuri Gokhberg, owner.

SUBJECT – Application April 24, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space, lot coverage and floor area (§23-141); rear yard (§23-47) and side yard (§23-461) in an R3-1 zoning district.

PREMISES AFFECTED – 67 Amherst Street, north of Hampton Avenue, south of Shore Boulevard, Block 8727,

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JUNE 19, 2007
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

198-66-BZ, Vol. II

APPLICANT – Eric Palatnik, P.C., for 300 East 74 Owners, Corp., owner.

SUBJECT – Application April 17, 2007 – Extension of Time to Complete Construction to permit modification to the size, configuration and design of an existing plaza for a residential high rise building which expired on January 19, 2006; an Extension of Time to obtain a Certificate of Occupancy which expired on October 19, 2006 and a waiver of Rules of Practice and Procedure located in a C1-9 zoning district.

PREMISES AFFECTED – 300 East 74th Street, southeast corner of 2nd Avenue and East 74th Street, Block 1448, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to complete construction of the modification of an existing plaza for a residential building, which expired on January 19, 2006; and

WHEREAS, a public hearing was held on this application on June 5, 2007, after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

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

WHEREAS, the subject premises is located on the southeast corner of Second Avenue and 74th Street, within a C1-9 zoning district; and

WHEREAS, on May 3, 1966, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to permit the construction of a 36-story mixed-use commercial/residential building at the site; and

WHEREAS, the grant was subsequently amended and the time to complete construction extended at various times; and

WHEREAS, most recently, on April 19, 2005, the grant

was amended to permit a reduction in the size (which did not affect the required amount of space associated with the building's floor area increase) and a reconfiguration of the plaza for the 36-story building; and

WHEREAS, a condition of the grant was that work be completed within nine months of the date of the grant and a new certificate of occupancy be obtained within 18 months of the date of the grant; and

WHEREAS, the applicant represents that due, in part, to discussions with the MTA about the potential to use the plaza as a staging area for its construction work and, in part, to financial concerns, the plaza has not been completed; and

WHEREAS, this application seeks an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, at hearing, a neighbor provided testimony that the plaza was not being secured and maintained free of debris during the construction delay; and

WHEREAS, in response, the applicant provided an affidavit from the assistant vice president of the building's owners' corporation stating that garbage and recycling will be collected and stored outside of the plaza area; and

WHEREAS, at hearing, the applicant stated that MTA would not need to use the space as a staging area and, therefore, were no longer delayed; and

WHEREAS, at hearing, the applicant stated that construction could resume in six months and would take another six months to complete; and

WHEREAS, based upon its review of the record, the Board finds that a one-year extension of term to complete construction and an additional one year to obtain a certificate of occupancy are appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated May 3, 1966, so that as amended this portion of the resolution shall read: "to grant an extension of the time to complete construction for a period of one year from the date of this grant and to permit a period of two years from the date of this grant to obtain a certificate of occupancy; *on condition* that any and all work shall substantially conform to the approved drawings and *on further condition*:

THAT construction shall begin by December 19, 2007 and be substantially completed by June 19, 2008;

THAT a certificate of occupancy shall be obtained by June 19, 2009;

THAT the plaza shall be secured and maintained free of debris prior to and during construction;

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."

MINUTES

(DOB Application No. 103595012)

Adopted by the Board of Standards and Appeals, June 19, 2007.

135-67-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Avenue “K” Corp., owner.

SUBJECT – Application April 3, 2007 – Extension of Term of a gasoline service station with minor auto repairs (Exxon) for 10 years which will expire on October 11, 2007 in an R3-2 zoning district.

PREMISES AFFECTED – 2063/91 Ralph Avenue, northwest corner of Avenue K, Block 8339, Lot 1, 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 Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening, an extension of time to obtain a certificate of occupancy, and an extension of term for a previously granted variance for a gasoline service station, which will expire on October 11, 2007; and

WHEREAS, a public hearing was held on this application on May 22, 2007, after due notice by publication in *The City Record*, with a continued hearing on June 5, 2007, and then to decision on June 19, 2007; and

WHEREAS, Community Board 18, Brooklyn, has made no recommendation with respect to the approval of this application; and

WHEREAS, the site is located on the northeast corner of Ralph Avenue and Avenue K; and

WHEREAS, the site is located in an R3-2 zoning district and is improved with a gasoline service station with two gasoline pump islands with two multiple pump dispensers on each island, an accessory automobile repair building, and on-site accessory parking spaces for cars awaiting service; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 26, 1960 when, under BSA Cal. No. 546-59-BZ, the Board granted a variance for the construction of a gasoline service station with accessory uses; and

WHEREAS, on July 11, 1967, under the subject calendar number, the Board amended the grant to permit the reconstruction of the service station; and

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

WHEREAS, on December 22, 1998, the grant was amended to permit an extension of the term of the variance for an additional ten years until October 11, 2007; and

WHEREAS, most recently, on November 26, 2002, the Board extended the time to obtain a new certificate of occupancy until November 26, 2004; and

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

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

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

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term and extension of time to obtain a certificate of occupancy appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on July 11, 1967, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the term for ten years from October 11, 2007, to expire on October 11, 2017, and to permit a six-month extension of time to obtain a certificate of occupancy, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received April 3, 2007’–(2) sheets; and *on further condition*:

THAT the term of this grant shall expire on October 11, 2017;

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

THAT a certificate of occupancy shall be obtained by December 19, 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)/configuration(s) not related to the relief granted.”

(DOB Application No. 302292070)

Adopted by the Board of Standards and Appeals, June 19, 2007.

215-78-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for East 72nd Realty, LLC, owner.

SUBJECT – Application May 13, 2007 – Extension of Term/Waiver for an additional ten years the term of a variance previously granted pursuant to Section 60(3) of the Multiple Dwelling Law, allowing surplus parking spaces in an attended accessory garage to be used for transient parking located in an R10, R8B and C2-8/R10A zoning district.

PREMISES AFFECTED –1353-1367 York Avenue, west side of York Avenue between East 72nd and 73rd Streets, Block 1467, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

MINUTES

APPEARANCES –

For Applicant: Elizabeth Laise.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson..4

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 for a previously granted variance for a transient parking garage, which expired on October 24, 2003; and

WHEREAS, a public hearing was held on this application on June 5, 2007, after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

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

WHEREAS, the subject premises is located on the west side of York Avenue between East 72nd Street and East 73rd Street; and

WHEREAS, the site is occupied by a 37-story mixed-use building with medical offices on the ground floor and residential use above; and

WHEREAS, the site is located partially within an R10 zoning district, partially within an R8B zoning district, and partially within a C2-8 (R10A) zoning district; and

WHEREAS, the cellar, subcellar, and a portion of the ground floor level are occupied by a 225-space accessory garage, with 23 spaces on the ground floor, 119 spaces on the cellar level, and 83 spaces on the subcellar level; and

WHEREAS, on October 28, 1978, the Board granted a variance, under the subject calendar number, to permit a maximum of 57 surplus parking spaces to be used for transient parking for a term of 15 years; and

WHEREAS, on August 2, 1994, under the subject calendar number, the Board granted a ten-year extension of term, to expire on October 24, 2003; and

WHEREAS, the applicant submitted a photograph of the sign posted onsite, which states building residents' right to recapture parking spaces; and

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

Therefore it is Resolved that the Board of Standards and Appeals, *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution having been adopted on October 28, 1978, 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 October 24, 2003, to expire on October 24, 2013; *on condition* that that all work shall substantially conform to drawings filed with this application and marked 'Received February 8, 2007'-(3) sheets; and *on further condition*:

THAT this term shall expire on October 24, 2013;

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 located in a conspicuous place within the garage, permanently affixed to the wall;

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

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."

(DOB Application No. 104637065)

Adopted by the Board of Standards and Appeals, June 19, 2007.

520-89-BZ

APPLICANT – Law Office of Fredrick A. Becker, for SJF Audubon Realty, LLC, owner.

SUBJECT – Application March 21, 2007 – Extension of Term for a previously granted variance to permit in an R7-2 zoning district (Use Group 8) parking lot for more than 5 vehicles which expired on April 18, 2005; a waiver of rules of practice and procedure and an Extension of Time to obtain a Certificate of Occupancy which expired on November 21, 1996.

PREMISES AFFECTED – 65 Audubon Avenue, easterly side of Audubon Avenue, 30' southerly of West 169th Street, Block 2125, Lots 30 & 31, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

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 for a previously granted variance for a parking lot, which expired on April 18, 2005; and

WHEREAS, a public hearing was held on this application on May 15, 2007 after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

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

WHEREAS, the subject premises is located on the east side of Audubon Avenue, thirty feet south of West 169th Street; and

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WHEREAS, the site is located within an R7-2 zoning district and is occupied by a 4,731 sq. ft. parking lot; and

WHEREAS, in 1960, under BSA Cal. No. 385-60-BZ, the Board granted a variance to allow parking and storage of more than five motor vehicles at the site; this grant was extended four times, but lapsed in 1986; and

WHEREAS, on April 18, 1990, under the subject calendar number, the Board reinstated the variance for a term of five years; and

WHEREAS, most recently, on November 21, 1995, the grant was extended for a term of ten years; and

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

WHEREAS, the applicant represents that there are approximately 21 spaces for motor vehicle parking and storage at the site and that this condition will be maintained; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated April 18, 1990, so that as amended this portion of the resolution shall read: "to grant an extension of the variance for a term of ten years from the expiration of the prior grant on April 18, 2005; *on condition* that the use and operation of the parking lot shall substantially conform to previously approved BSA plans; and *on condition*:

THAT this grant shall be limited to a term of ten years from April 18, 2005, expiring April 18, 2015;

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

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

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

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

(Alt. 1657/65)

Adopted by the Board of Standards and Appeals, June 19, 2007.

346-98-BZ

APPLICANT – Vito J. Fossella, P.E., for Amboy Service Station, Inc., owner.

SUBJECT – Application June 26, 2006 – To reinstate an expired amendment granted on October 12, 1999 to permit the proposed conversion of an existing building accessory to a gasoline service station, into a convenience store, by

enlarging the existing building and eliminating the use of the lubritorium, car wash, motor adjustments and minor repairs, as well as the relocation and increase in the number of pump islands from two to four, with a metal canopy over the new pump islands; an extension of Time to obtain a Certificate of Occupancy and a waiver of the rules in an R3-2 (South Richmond) zoning district.

PREMISES AFFECTED – 3701 Amboy Road, Block 4645, Lot 140, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Sameh M. El-Meniawy.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reinstatement of an amendment to permit the conversion of an existing accessory gasoline service station building into a convenience store with other site modifications, which expired on October 12, 2003; and

WHEREAS, a public hearing was held on this application on March 13, 2007, after due notice by publication in *The City Record*, with continued hearings on April 24, 2007 and June 5, 2007, and then to decision on June 19, 2007; and

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

WHEREAS, Community Board 3, Staten Island, originally recommended disapproval but ultimately recommended approval of this application; and

WHEREAS, the premises is located on the north side of Amboy Road, between the intersections formed with Fieldway Avenue and Keegans Lane, within an R3-2 zoning district within the Special South Richmond Development District; and

WHEREAS, the subject zoning lot has a total lot area of approximately 15,440 sq. ft.; and

WHEREAS, the site is currently occupied by a 1,490 sq. ft. accessory building and two gasoline pump islands; and

WHEREAS, on February 25, 1959, under BSA Cal. No. 959-57-BZ, the Board granted a variance to permit the reconstruction of a gasoline service station with accessory uses; and

WHEREAS, the application was subsequently amended at various times; and

WHEREAS, on October 27, 1987, under BSA Cal. No. 587-87-A, the Board permitted the conversion of the gasoline pumps to self-service pumps for a period of five years; and

WHEREAS, on October 12, 1999, under the subject calendar number, the Board granted a variance to permit the conversion of the existing accessory building into a convenience store by enlarging the existing building and eliminating the use of the lubritorium, car wash, and minor repair facilities as well as the relocation and increase in the number of pump islands from two to four, for a period of ten

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years; and

WHEREAS, the grant required that construction was to be completed within four years of the date of the application; and

WHEREAS, the applicant represents that construction was not completed due to financial hardship; and

WHEREAS, the applicant now requests reinstatement of the expired amendment to allow for several modifications to the approved plans; and

WHEREAS, the applicant represents that the owner will be able to complete the work within one year of the date of this grant; and

WHEREAS, at hearing, the Board expressed concern that the site could not accommodate all of the proposed modifications; and

WHEREAS, specifically, the Board directed the applicant to eliminate one of the proposed new pump islands so that there would only be three, rather than four; and

WHEREAS, additionally, the Board directed the applicant to eliminate one of the curb cuts to improve the traffic flow and minimize the impact on Amboy Road; and

WHEREAS, the Board also directed the applicant to reduce the size of the proposed enlargement to the accessory building and to provide the required 20'-0" setback from the railroad; and

WHEREAS, accordingly, the applicant revised the proposal, which included additional screening along the northern and western property lines, to the Board's satisfaction; and

WHEREAS, based upon its review of the record, the Board finds that the proposed reinstatement and amendments, with the noted revisions are appropriate.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on October 12, 1999, so that as amended this portion of the resolution shall read: "to permit the reinstatement of the prior amendment to allow a one-year extension of time to complete construction, and to permit the noted modifications to the BSA-approved plans *on condition* that all work and site conditions shall comply with drawings marked 'Received May 22, 2007'-(6) sheets; and *on further condition*:

THAT the construction shall be substantially complete by June 19, 2008;

THAT landscaping and fencing shall be installed and maintained as per the BSA-approved plans;

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

THAT a new certificate of occupancy shall be obtained within 18 months of the date of this grant, on December 19, 2008;

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

THAT the layout of the property, and location and size of the fence 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 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.

(DOB Application No. 500868732)

Adopted by the Board of Standards and Appeals, June 19, 2007.

305-01-BZ thru 320-01-BZ

APPLICANT – Sheldon Lobel, P.C., for Terrace Court Development, LLC, owner.

SUBJECT – Application April 27, 2007 – Extension of time to complete construction of a residential development which was granted on March 25, 2003. M1-1/M1-2 zoning district. PREMISES AFFECTED – 65-77, 79, 81, 83 through 87, 89, 91, 93, 95, 97, 99, 101, 103 Terrace Court, Block 3605, Lot 200, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a residential development, which expired on March 25, 2007; and

WHEREAS, a public hearing was held on this application on June 5, 2007 after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

WHEREAS, the subject premises is located on the eastern end of Admiral Avenue, partially within an M1-1 zoning district and partially within an M1-2 zoning district; and

WHEREAS, on March 25, 2003, under the subject calendar numbers, the Board granted variances pursuant to ZR § 72-21 to permit the construction of 16 three-story, three-family homes to be part of a 19-home development; and

WHEREAS, each home was the subject of a separate variance application, but, in the interest of convenience, these 16 applications for an extension of time to complete construction were heard together; and

WHEREAS, the applicant has also brought a separate application, under BSA Cal. Nos. 37-03-BZ through 39-03-BZ, for three additional homes to be constructed at the site; and

WHEREAS, the applicant represents that due, in part, to delays associated with sewer and drainage plan approval, the owner has been unable to substantially complete construction

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within the initial four-year period; and

WHEREAS, the instant application seeks a three-year extension of time to complete construction; and

WHEREAS, based upon its review of the record, the Board finds that a three-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated March 25, 2003, so that as amended this portion of the resolution shall read: “to grant an extension of the time to complete construction for a term of three years from the date of this grant; *on condition*:

THAT substantial construction shall be completed by June 19, 2010;

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 Nos. 401245498, 401248185, 401278194, 401278201, 401278210, 401278229, 401278238, 401278247, 401245782, 401278176, 401278167, 401278158, 401278149, 401278130, 401278121, and 401278112)

Adopted by the Board of Standards and Appeals, June 19, 2007.

37-03-BZ thru 39-03-BZ

APPLICANT – Sheldon Lobel, P.C., for Terrace Court Development, LLC, owner.

SUBJECT – Application April 27, 2007 – Extension of time to complete construction of a residential development which was granted on March 25, 2003. M1-1/M1-2 zoning district.

PREMISES AFFECTED – 65-78, 80, 82 Terrace Court, Block 3605, Lot 200, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of the time to complete construction of a residential development, which expired on March 25, 2007; and

WHEREAS, a public hearing was held on this application on June 5, 2007 after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

WHEREAS, the subject premises is located on the eastern end of Admiral Avenue, partially within an M1-1 zoning district and partially within an M1-2 zoning district; and

WHEREAS, on March 25, 2003, under the subject calendar numbers, the Board granted variances, pursuant to ZR § 72-21, to permit the construction of three three-story, three-family homes to be part of a 19-home development; and

WHEREAS, each home was the subject of a separate variance application, but, in the interest of convenience, these three applications for an extension of time to complete construction were heard together; and

WHEREAS, the applicant has also brought a separate application, under BSA Cal. Nos. 305-01-BZ through 320-01-BZ, for 16 additional homes to be constructed at the site; and

WHEREAS, the applicant represents that due, in part, to delays associated with sewer and drainage plan approval, the owner has been unable to substantially complete construction within the initial four-year period; and

WHEREAS, the instant application seeks a three-year extension of time to complete construction; and

WHEREAS, based upon its review of the record, the Board finds that a three-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated March 25, 2003, so that as amended this portion of the resolution shall read: “to grant an extension of the time to complete construction for a term of three years from the date of this grant *on condition*:

THAT substantial construction shall be completed by June 19, 2010;

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 Nos. 401598605, 401598614, and 401598623)

Adopted by the Board of Standards and Appeals, June 19, 2007.

135-05-BZ

APPLICANT – Judith Gallent, Esq., Bryan Cave, LLP for L&M Equity Participants Ltd. and Harlem Congregations for Community Improvement, Inc, contract vendees.

SUBJECT – Application April 18, 2007 – To reopen and amend a previously -approved zoning variance under ZR §72-21 that allowed the residential conversion of an existing non-complying building previously used as a school (former PS 90) located in an R7-2 district; contrary to ZR §23-142, ZR §23-533, & ZR §23-633. The proposed amendment would permit a 5,987 sf. ft. enlargement to the existing sixth

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floor.

PREMISES AFFECTED – 217 West 147th Street, located on block bounded by West 147th and West 148th streets and Adam Clayton Powell, Jr. and Frederick Douglas Boulevards, Block 2033, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Judith Gallent.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an amendment to an existing variance, to allow for the conversion of an existing non-complying former school building to residential use; and

WHEREAS, a public hearing was held on this application on May 15, 2007, after due notice by publication in *The City Record*, with a continued hearing on June 5, 2007, and then to decision on June 19, 2007; and

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

WHEREAS, Community Board 10, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is a through lot with frontage on West 148th Street and West 147th Street, between Frederick Douglas Boulevard and Clayton Powell, Jr. Boulevard within an R7-2 zoning district; and

WHEREAS, the subject site is occupied by a vacant six-story 103,764 sq. ft. former public school building with an FAR of 3.44; and

WHEREAS, on January 24, 2006, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to permit the conversion of a vacant six-story public school building to a 75-unit residential building, which did not comply with applicable requirements for open space ratio, FAR, setback, base and building height, and rear yard; and

WHEREAS, the applicant requests to make the following amendments to the prior grant and associated plans: (1) to add 5,987 sq. ft. of floor area to the existing sixth floor, (2) to revise the noted FAR from 3.43 to 3.44, (3) to revise the noted open space ratio from 10.77 to 10.49, and (4) to note the correct height and setback section being waived; and

WHEREAS, as to the floor area, the applicant represents that at the time of the original application, due to the deteriorated condition of the building, the architect was unable to access the entire building to take measurements of the floor area and relied on incomplete original building plans to estimate the floor area of the sixth floor; this measurement was estimated to be 11,223 sq. ft. and the total building floor area was calculated to be 103,764 sq. ft.; and

WHEREAS, the applicant represents that, subsequent to the grant, when the building was properly shored and access to

the sixth floor was deemed safe, the correct floor area calculation for the sixth floor was determined to be 5,236 sq. ft., 5,987 sq. ft. smaller than what was anticipated; and

WHEREAS, the applicant now asks to be permitted to enlarge the sixth floor, which is severely deteriorated and must be re-built, to the 11,223 sq. ft. that was originally calculated; and

WHEREAS, the applicant notes that this does not reflect an increase in the floor area from what was approved, but rather reflects a correction of an error so that the amount of floor area that was originally approved may be provided; and

WHEREAS, in support of this request, the applicant submitted photographs reflecting the severe deterioration of the sixth floor; and

WHEREAS, as to the FAR, the applicant notes that the approved FAR calculation of 3.43 is based on the approved floor area figure, which has not changed; the exact FAR is 3.438, which was previously rounded down to 3.43, but which should have been rounded up to 3.44; and

WHEREAS, as to the open space ratio, the applicant represents that two light wells were erroneously included in the prior open space ratio calculation; again, there is no change to the approved plans, but the correct open space ratio should be 10.49 rather than 10.77; and

WHEREAS, as to the height and setback waiver, the applicant notes that the original DOB objections and waiver request erroneously cited to ZR § 23-633, which governs base and maximum building heights for buildings built pursuant to the Quality Housing provisions, rather than ZR § 23-632, which governs height factor buildings like the subject building; and

WHEREAS, accordingly, the applicant requests that the Board waive ZR § 23-632 because the subject building violates the maximum street wall height and penetrates the sky exposure plane, and to permit a small portion of the proposed sixth floor to violate the sky exposure plane; and

WHEREAS, in support of this request, the applicant submitted a revised notice of objections from DOB reflecting the appropriate ZR section; and

WHEREAS, the applicant also requests approval of a minor amendment to the approved plans, which reflects a revised ground floor lobby entrance; and

WHEREAS, the Board notes that the proposed building envelope will not change and that none of the requested corrections reflects a change in what was originally contemplated and understood to be the proposal; and

WHEREAS, the Board also notes that the applicant provided revised financials, reflecting the new conditions and that the requested amendment does not have a significant impact on the minimum return; additionally, the conversion and small enlargement still constitutes the minimum variance; and

WHEREAS, accordingly, the Board agrees that all of the requested changes are within the scope of the original grant and has determined that none of the requested changes affects the required findings; and

WHEREAS, based upon its review of the record, the Board finds that the proposed amendments are appropriate.

Therefore it is Resolved that the Board of Standards and

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Appeals reopens and amends the resolution, said resolution having been adopted on January 24, 2006, so that as amended this portion of the resolution shall read: "to permit a correction to the FAR, open space ratio, and sixth-floor floor area calculation; to permit the waiver of ZR § 23-632, rather than ZR § 23-633, as originally noted; and to permit the enlargement of the existing sixth floor and the noted modifications to the BSA-approved plans *on condition* that all work and site conditions shall comply with drawings marked "Received April 16, 2007"- five (5) sheets and "Received June 14, 2007 - one (1) sheet; and *on further condition*:

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

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

(DOB Application No. 104110392)

Adopted by the Board of Standards and Appeals, June 19, 2007.

1236-27-BZII

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

SUBJECT - Application February 22, 2007 - Extension of Term for a previously granted special permit of a UG 16 Automotive Service Station (BP Products North America) which expired on February 22, 2007 in a C2-2/R3-1 zoning district.

PREMISES AFFECTED - 163-01 Cross Bay Boulevard, southeast corner of 163rd Street, Block 14201, Lot 63, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD - Laid over to July 24, 2007, at 10 A.M., for decision, hearing closed.

52-55-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Bouck Oil Corp., owner.

SUBJECT - Application November 28, 2006 - Amendment, filed pursuant to §11-412 of the zoning resolution, of previously approved automotive service station with accessory uses located in a C1-2/R5 zoning district. Application seeks to permit the erection of a one story enlargement to an existing building to be used as an accessory convenience store.

PREMISES AFFECTED - 1255 East Gun Hill Road, northwest corner of Bouck Avenue, Block 4733, Lot 72, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Carl A. Sulfaro.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD - Laid over to July 17, 2007, at 10 A.M., for decision, hearing closed.

704-59-BZ

APPLICANT - Peter Hirshman, for S & B Bronx Realty Associates, owner; G. R. Parking Lot, lessee.

SUBJECT - Application December 5, 2006 - Extension of Term/waiver of the rules for a previously granted variance of a UG8 Parking lot for more than five motor vehicles which expired on June 3, 2000 in an R8 zoning district.

PREMISES AFFECTED - 53 East 177th Street, northeast corner of Walton Avenue and East 177th Street, Block 2828, Lots 1, 45, 46, Borough of Bronx.

COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Peter Hirshman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD - Laid over to July 24, 2007, at 10 A.M., for decision, hearing closed.

142-70-BZ

APPLICANT - Barbara Hair, Esq., for Target Realty LLC, owner.

SUBJECT - Application December 12, 2006 - Amendment to a variance previously approved pursuant to section 72-21 of the zoning resolution which allowed commercial office space (Use Group 6) on the cellar level of a residential building located in a R7-2 zoning district. The application seeks a change of use in the existing commercial space on the cellar level from Use Group 6 office to Use Group 6 store.

PREMISES AFFECTED - 8 St. Marks Place, south side, 126' east of 3rd Avenue, Block 463, Lot 13, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES -

For Applicant: Barbara Hair.

For Opposition: Susanne Schrepp.

ACTION OF THE BOARD - Laid over to July 17, 2007, at 10 A.M., for continued hearing.

558-71-BZ, Vol. II

APPLICANT - Eric Palatnik, P.C., for George Feig, owner.

SUBJECT - Application February 20, 2007 - Amendment to permit the legalization of the change in use from the

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previously approved greenhouse and nursery establishment with accessory uses (UG6) to an eating and drinking establishment (UG6) located in a R3-1 zoning district.
PREMISES AFFECTED – 1949 Richmond Avenue, north of Rockland Avenue, Block 2030, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to August 7, 2007, at 10 A.M., for continued hearing.

21-91-BZ

APPLICANT – Kenwyn A. Sandy, R.A., for Hardath Latchminarain, owner.

SUBJECT – Application March 12, 2007 – Extension of Term/Waiver of the rules of practice and procedures for a previously granted Variance (72-21) to operate an automobile glass and minor establishment (UG7) with sales of used cars (UG16) and an Extension of Time to obtain a Certificate of Occupancy in an R-5 zoning district.

PREMISES AFFECTED – 2407-2417 Linden Boulevard, Block 4478, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Josh Rhinesmith.

For Opposition: Ronald J. Dillion.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD – Laid over to July 24, 2007, at 10 A.M., for decision, hearing closed.

81-93-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for 2255 Bedford Development Assoc., LP, owner.

SUBJECT – Application November 30, 2006 – Amendment of a previous resolution to permit conversion of portions of the cellar to artist studio space and portions of the first floor to residential apartments within a building that the Board granted the re-establishment of residential use on the upper floors and the approval of a childcare center on portions of the cellar and the entire ground floor of a building located in a C8-2 zoning district.

PREMISES AFFECTED – 2255 Bedford Avenue, east side of Bedford Avenue 34' north of intersection with Snyder Avenue, Block 5107, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Adam Rothkrug and Tom Anderson.

ACTION OF THE BOARD – Laid over to July 17, 2007, at 10 A.M., for continued hearing.

189-96-BZ

APPLICANT – John C. Chen, for Ping Yee, owner; Edith D'Angelo-CNandongga, lessee.

SUBJECT – Application March 14, 2007 – Extension of Term for a Special Permit (§73-244) for a UG12 eating and drinking establishment with entertainment and dancing (Flamingos) in an C2-3/R-6 zoning district; and to increase the number of occupancy from 190 to 200 which will expire on May 19, 2007.

PREMISES AFFECTED – 85-12 Roosevelt Avenue, south side of Roosevelt Avenue, 58' east side of Forley Street, Block 1502, Lot 3, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: John Chen.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2007, at 10 A.M., for decision, hearing closed.

199-00-BZ, Vol. III

APPLICANT – John C. Chen, for En Ping, Ltd., owner; Valentin E. Partner Atlantis, lessee.

SUBJECT – Application February 23, 2007 – Extension of Term of a Special Permit (§73-244) for a UG12 eating and drinking establishment (Club Atlantis) in a C2-3/R-6 zoning district which expired March 13, 2007.

PREMISES AFFECTED – 76-19 Roosevelt Avenue, northwest corner of Roosevelt Avenue and 77th Street, Block 1287, Lot 37, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: John Chen.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2007, at 10 A.M., for decision, hearing closed.

200-00-BZ, Vol. III

APPLICANT – Eric Palatnik, P.C., for Blans Development Corp., owner.

SUBJECT – Application January 22, 2007 – Extension of Term/Waiver of a previously approved variance, which expired on July 17, 2006 for an existing physical culture establishment at the second floor of the premises located in a R6B (C1-4) zoning district

PREMISES AFFECTED – 107-24 37th Avenue, a/k/a 37-16 108th Street, southwest corner of 108th Street and 37th

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Avenue, Block 1773, Lot 10, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to July 24, 2007, at 10 A.M., for continued hearing.

APPEALS CALENDAR

28-05-A

APPLICANT – Alex Ng

OWNER OF PREMISES: Bill Petit

SUBJECT – Application February 17, 2005 – Appeal seeking to challenge the Department of Building's determination that a fenced refuse area in any yard or open space does not violate any Building Code or Zoning Resolution.

PREMISES AFFECTED – 72-02 Ridge Boulevard, a/k/a Flagg Court, Block 5906, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Opposition: Mark Davis.

ACTION OF THE BOARD – Application denied.

THE VOTE TO GRANT –

Affirmative:0

Negative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown.....3

Recused: Commissioner Hinkson.....1

THE RESOLUTION:

WHEREAS, the instant appeal comes before the Board in response to a final determination of the Brooklyn Borough Commissioner of the NYC Department of Buildings (“DOB”), dated December 21, 2006 (the “Final Determination”); and

WHEREAS, the Final Determination was issued in response to a request dated January 11, 2005 from appellant Alex Ng (“Appellant”) for a final determination with respect to three issues: 1) the legality of the storage of garbage by Flagg Court (the “Premises”) in an “open fenced-in area” on 73rd Street, 2) mislabeling of this area as a “temporary garbage storage site,” and 3) an order for the restoration of a “boundary fence” to its pre-2002 condition at the Premises; and

WHEREAS, the Final Determination states:

I am in receipt of your July 24, 2005 letter concerning a fenced refuse area at 7202 Ridge Boulevard in Brooklyn (the “subject premises”).

Contrary to the first assertion in our letter, the owners of the subject premises need not store garbage in their cellar; there is simply no such requirement either in the building code or zoning resolution requiring such storage. The mere fact that the subject premises has a certificate of occupancy that authorizes storage in the cellar does not impose a requirement upon the owners to store their refuse there. Furthermore, a fenced refuse area in any yard or open space is not in violation of any zoning requirements, either under ZR 23-44, or otherwise.

Your second assertion, that the owners of the subject premises must eliminate a “concave [fence] area in the private property,” is also mistaken. There is no legal requirement that property owners extend their fence(s) to the property’s lot line. Accordingly, the concave area at issue does not constitute any violation.

Since the fence areas at issue are not over six feet tall, and because they constitute no zoning or building code violations (as explained above), they are not illegal.

WHEREAS, the Appellant challenges DOB’s determination that it lacks jurisdiction over any of the alleged violations at the Premises that Appellant cites; and

WHEREAS, a public hearing was held on this appeal on May 8, 2007, after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

WHEREAS, Commissioner Hinkson recused herself from the instant Appeal; and

WHEREAS, DOB has been represented by counsel in this appeal and the Appellant has represented himself; and

THE APPELLANT

WHEREAS, the Appellant is a resident of 166 73rd Street, Brooklyn, whose residence faces 7202 Ridge Boulevard where the alleged violations exist; and

WHEREAS, Appellant states that his (as well as his neighbors’) enjoyment of his home has been impacted by the storage of garbage at the Premises; and

PROCEDURAL HISTORY

WHEREAS, on January 29, 2003, DOB issued a violation to Flagg Court Owners Corp. (“Flagg Court”), the owners of the Premises, for erecting a four-sided, approximately eight-foot high, roofed chain link fence structure (the “fenced refuse area” at the Premises without the required DOB permit; and

WHEREAS, on June 26, 2003, DOB issued violations to Flagg Court for failure to comply with DOB permit requirements and illegal occupancy (both for the fenced refuse area); and

WHEREAS, on August 1, 2003 Flagg Court received DOB permit no. 301573991 (the “Permit”) to relocate the fenced refuse area inside the Premises’ property line; and

WHEREAS, on November 13, 2003, DOB revoked the Permit for failure to address zoning objections DOB had issued against the permit in September 2003; and

WHEREAS, on December 11, 2003, DOB issued a violation to Flagg Court for failing to have a permit for the fenced refuse area; and

WHEREAS, on January 14, 2004, DOB rescinded the revocation of the Permit after Flagg Court amended the Permit to remove the roof of the fenced refuse area; and

WHEREAS, on February 23, 2004, DOB signed off on the job authorized by the Permit; and

WHEREAS, on December 2, 2004 DOB revoked the Permit because the 8-foot high fence violated the Building Code and Zoning Resolution; and

WHEREAS, in or about December 2004 the fenced refuse area was lowered to a height of six feet; and

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WHEREAS, on or about January 11, 2005, Appellant wrote to DOB for a final determination as to: 1) the legality of the fenced refuse area; and 2) whether the boundary fence at the Premises must be restored to prevent “illegal roadside drop-offs”; and

WHEREAS, on January 21, 2005, DOB Brooklyn Commissioner Susan Hinkson issued a final determination letter (the “Hinkson Letter”) in response to Appellant’s January 11 letter. The Hinkson Letter stated that the six-foot high fenced refuse area was not illegal and that Appellant’s complaints about garbage on the sidewalk were properly addressed to the NYC Department of Transportation or the NYC Department of Sanitation; and

WHEREAS, on February 16, 2005 Appellant filed the instant Appeal with the Board; and

WHEREAS, at the suggestion of the Board, on July 24, 2005 Appellant wrote to DOB asking for a second final determination with respect to compliance with Flagg Court’s Certificate of Occupancy, restoration of the lot-line fence and the legality of Flagg Court’s storage of garbage in the refuse storage area; and

WHEREAS, on December 21, 2006 DOB Brooklyn Borough Commissioner Magdi Mossad wrote a letter (the “Final Determination”) in response to Appellant’s July 24 letter in which he explained that 1) the refuse area is neither a zoning nor a building code violation; 2) there is no legal requirement for Flagg Court to store garbage in its cellar; and 3) there is no legal requirement that the lot line fence be restored; and

DISCUSSION

A. Legality of the fenced refuse area

WHEREAS, Appellant argues that the fenced refuse area is in violation of both the Building Code and the Zoning Resolution; and

WHEREAS, Appellant cites no specific provision of the Building Code that would prohibit the fenced refuse area; and

WHEREAS, in the absence of any citation to any Building Code requirement by Appellant that would prohibit the fence, the Board finds that there is no Building Code prohibition against the existing fence; and

WHEREAS, Appellant initially argued that Flagg Court is required to reconstruct the fence at the lot line, which had the effect of helping to confine the garbage stored within the refuse storage area; and

WHEREAS, as noted by DOB, Appellant cites no legal prohibition against the prior removal of the lot-line fence or any requirement that Flagg Court restore the previously existing lot-line fence; and

WHEREAS, in the absence of any evidence that there is a DOB-enforced requirement that removal of the lot-line fence was contrary to law or that the lot-line fence be reconstructed, the Board finds that Flagg Court’s removal of the lot-line fence was not contrary to law and that there is no requirement that it be reconstructed; and

WHEREAS, Appellant argues that the refuse storage area is not permitted in the required yards; and

WHEREAS, DOB cites ZR § 23-44(a) in support of the position that the 6-foot fence is permitted in “any [required] yard or rear yard equivalent”; and

WHEREAS, the Board finds that there is no prohibition against the fence forming the refuse area in the required yards; and

WHEREAS, Appellant argues that the refuse storage area is prohibited under the provisions of the Special Bay Ridge Zoning District regulations; and

WHEREAS, in support of this argument Appellant cites ZR §114-262(c); and

WHEREAS, as DOB observes, ZR § 114-262(c) was repealed in 2005; and

WHEREAS, even if ZR § 114-262(c) had not been repealed, it would not apply to the Premises since the Premises are not within a “major street block front within the Avenue Preservation Area – 1 (Area B); and

WHEREAS, Appellant also argues that the “General Purposes” section of the Special Bay Ridge Zoning District, which states that “the ‘Special Bay Ridge Zoning District’ established in this Resolution is designed to promote and protect the public health, safety and general welfare” therefore requires Flagg Court to take some action with respect to the storage of garbage in the refuse storage area; and

WHEREAS, the Board finds that, like other “General Purposes” sections in the ZR, this provision explains the goals of the following operative sections, and the language cited by Appellant is merely aspirational and establishes no enforceable requirements with the Special Bay Ridge Zoning District; and

WHEREAS, the Board finds this argument by Appellant to be unpersuasive and misplaced; and

B. Compliance with Certificate of Occupancy

WHEREAS, Appellant argues that Flagg Court’s Certificate of Occupancy, which authorizes storage of garbage in the cellar, in fact requires Flagg Court to store its garbage in the cellar and that therefore storage of garbage in the refuse area constitutes a violation; and

WHEREAS, DOB states that the Certificate of Occupancy is permissive rather than restrictive; and

WHEREAS, the Board agrees that the authorization to store garbage in the cellar provided by Flagg Court’s Certificate of Occupancy does not impose any requirement on Flagg Court to do so; and

C. Appellant’s Other Arguments

WHEREAS, Appellant claims that it is a violation for the refuse storage area to be labeled as “temporary”; and

WHEREAS, Appellant cites no authority for this proposition; and

WHEREAS, Appellant alleges violations of various New York City laws and regulations, including the NYC Administrative Code §§ 17-142, 24-102, 27-2018 to 19, 27-2021 and 16-120 and the Multiple Dwelling Law §§ 80-81, 305, 309(d) and 300(1); and

WHEREAS, DOB states that it has no jurisdiction with respect to these provisions, but rather that they are within the jurisdiction of other City agencies; and

WHEREAS, without ruling on whether the refuse storage area constitutes a violation of any of the provisions cited by Appellant, the Board agrees that DOB is not authorized to enforce them; and

WHEREAS Appellant cites various cases that have

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come before the Board in which conditions have been imposed with respect to indoor rooms for the storage of refuse or garbage; and

WHEREAS, Appellant argues that the Board should therefore impose a similar requirement on Flagg Court to store its garbage indoors in the instant matter; and

WHEREAS, the cases cited by Appellant were ones in which parties came before the Board seeking grants in connection with which the Board is authorized to impose such conditions; and

WHEREAS, the Board is not so authorized in the instant Appeal; and

WHEREAS, Flagg Court is not a party to any case before the Board; and

WHEREAS, the Board lacks jurisdiction to impose any requirements on Flagg Court; and

WHEREAS, Appellant argues without citing any applicable provision of law that DOB should regulate the height of the garbage piled in the refuse storage area and not merely the height of the fence; and

WHEREAS, DOB states that nothing in its regulations authorizes it to regulate garbage; and

CONCLUSION

WHEREAS, the Board acknowledges that the Appellant's use and enjoyment of his home may have been adversely affected by the outside storage of garbage by Flagg Court; and

WHEREAS, the Board has advised Appellant it the relief it seeks may be within the jurisdiction of other City agencies; and

WHEREAS, Appellant indicated at the hearing on the instant Appeal that he has not sought relief from other City agencies; and

WHEREAS, the Board finds that Appellant does not offer any basis for DOB to take any action with respect to the refuse area or the garbage stored therein; and

Therefore it is Resolved that the instant appeal, seeking a reversal of the Final Determination of the Brooklyn Borough Commissioner, dated January 21, 2006, determining that there is no violation over which DOB has jurisdiction in connection with the storage of garbage at the Premises and encouraging Appellant to seek relief through other City agencies, is hereby denied.

Adopted by the Board of Standards and Appeals, June 19, 2007.

142-06-A thru 148-06-A

APPLICANT – Sheldon Lobel, P.C., for Ideal Development Group, Ltd., lessee.

SUBJECT – Application July 6, 2006 – Proposed construction of four two- family homes and three three-family homes located partially within the bed of an unnamed mapped street which is contrary to General City Law Section 35. R5 Zoning District.

PREMISES AFFECTED – 3209 Tiemann Avenue, t/b/k/a 1651, 1655, 1661, 1665, 1671, 1675 Burke Avenue, 3215 and 3225 Tiemann Avenue, Block 4752, Lots 173, 175, 182,

t/b/k/a New Lots 170, 171, 172, 174, 176, 177, 178 & 180, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Zara F. Fernandes.

ACTION OF THE BOARD – Appeal granted on condition.
THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Bronx Borough Commissioner, dated June 19, 2006 and on February 7, 2007, acting on Department of Buildings Application Nos. 201051468, 201051477, 201052163, 201052172, 201052181, 201052190, and 201052145 which reads in pertinent part:

“Proposed dwelling is in the bed of mapped street.

Comply with Section 35 of the General City Law, refer to the Board of Standards and Appeals for an Administrative Appeal”; and

WHEREAS, a public hearing was held on this application on May 22, 2007 after due notice by publication in the *City Record*, and then to decision on June 19, 2007 and;

WHEREAS, this application requests permission to build four two-story, two- family homes and three three-story, three-family homes partially in the bed of an unnamed mapped street; and

WHEREAS, by letter dated January 5, 2007, the Fire Department states that it has reviewed the application and has no objections provided the buildings will not be occupied until Burke Avenue is built and open to traffic from Tiemann Avenue to Kingsland Avenue; Burke Avenue will have a minimum curb to curb width of 30'-0””; and

WHEREAS, by letter dated March 21, 2007, the Department of Environmental Protection states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated April 18, 2007, the Department of Transportation (DOT) states that it has reviewed the application and advised the Board that the proposed site plan does not reflect any provisions for a cul-de-sac/turnaround, at the dead end of Tiemann Avenue and that a clearly-defined curbline and a sidewalk with a minimum width of ten feet must be provided for the entire length of the proposed development adjacent to Tiemann Avenue at the intersection due to the angle of the intersection and the curvature of the street; and

WHEREAS, additionally, DOT requests that the owner construct half the width of the mapped street (Burke Avenue) with an additional five feet for the entire length of the unopened Burke Avenue between Tiemann Avenue and Kingsland Avenue for a distance of approximately 220 feet including the construction of roadways, curbs, and sidewalks as well as drainage; and

WHEREAS, by letter dated May 8, 2007 the applicant has submitted a revised site plan incorporating additional information about the proposed curbs and sidewalks; the plan also provides that Burke Avenue will be paved for 50 percent

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plus five feet; and

WHEREAS, the Board notes that the April 18, 2007 letter from DOT did not indicate that DOT intends to include the applicant's property in its ten-year capital plan; and

WHEREAS, by letter dated June 18, 2007, DOT states that it has reviewed the applicant's revised submission and has no further comments or objections; and

WHEREAS, based upon the above, the applicant has submitted adequate evidence to warrant this approval.

Therefore it is Resolved that the decision of the Bronx Borough Commissioner, dated June 19, 2006 and February 7, 2007, acting on Department of Buildings Application Nos. 201051468, 201051477, 201052163, 201052172, 201052181, 201052190, and 201052145, 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 June 15, 2007"-(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 lot subdivision is to be as approved by DOB;

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

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

Adopted by the Board of Standards and Appeals, June 19, 2007.

300-06-A

APPLICANT – Eric Palatnik, P.C., for Tony Wan Yiu Cheng, owner.

SUBJECT – Application November 14, 2006 – Proposed construction of a 4 story mixed use building which extends into the mapped street (44th Avenue) which is contrary to Section 35 of the General City Law. C2-5/R6-B zoning district.

PREMISES AFFECTED – 43-17 104th Street, north side of the corner formed by the intersection of 44th Street and 104th Avenue, Block 1987, Lot 67, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated October 26, 2006, acting on Department of Buildings Application No. 402458979 which reads in pertinent part:

"Proposed building in the bed of mapped street is contrary to GCL Section 35"; and

WHEREAS, a public hearing was held on this application on April 10 2007 after due notice by publication in the *City Record*, and then to continued hearing on May 8, 2007, and to decision on June 19, 2007; and

WHEREAS, by letter dated February 21, 2007, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated February 9, 2007, the Department of Environmental Protection states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated March 19, 2007, the Department of Transportation (DOT) states that it has reviewed the application and has advised the Board that it requires that the sidewalk and curb adjacent to the proposed development should be maintained with its current width and alignment on the north side of 44th Avenue; and

WHEREAS, the Board notes that DOT did not indicate that it intends to include the applicant's property in its ten-year capital plan; and

WHEREAS, by letter dated April 24, 2007, the applicant agrees to DOT's conditions that the sidewalk and curb adjacent to the proposed development will be maintained with its current width and alignment on the north side of 44th Avenue; and

WHEREAS, by letter dated June 18, 2007, DOT states that it has reviewed the applicant's submission and has no further objection or comments; and

WHEREAS, based upon the above, the applicant has submitted adequate evidence to warrant this approval.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated October 26, 2006, acting on Department of Buildings Application No. 402458979, 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 June 5, 2007"-(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, June 19, 2007.

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307-06-A

APPLICANT – Alec Shtromandel-FHSRI, for 58th Avenue Management, LLC, owner; Forest Hills Student Residences, lessee.

SUBJECT – Application November 22, 2006 – An appeal challenging Department of Buildings determination that the subject premises does not qualify as a Community Facility under Section 22-13 of the Zoning Resolution. R5 Zoning District.

PREMISES AFFECTED – 86-18 58th Avenue, east side of 58th Avenue, 160’ north of the corner formed by the intersection of Van Horn Street and 58th Avenue, Block 2872, Lot 15, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Opposition: Mark Davis.

ACTION OF THE BOARD – Application denied.

THE VOTE TO GRANT –

Affirmative:0

Negative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown.....3

Recused: Commissioner Hinkson.....1

THE RESOLUTION:

WHEREAS, the instant appeal comes before the Board in response to a final determination of the Acting Queens Borough Commissioner of the NYC Department of Buildings (“DOB”), on or about October 23, 2006 (the “Final Determination”); and

WHEREAS, the Final Determination, which is handwritten and signed by the Acting Queens Borough Commissioner on a copy of a letter from counsel for Appellant Forest Hills Student Residence, Inc. (“Appellant”) dated August 10, 2006 requesting a reconsideration of the prior denial in this matter, states:

Unanimously denied per BCTM [Borough Commissioners’ Technical Meeting] #332, on 8/23/06.

Note: Proposed layout does not support accessory sleeping accommodations to a non-profit institution, as in examples shown.

WHEREAS, the Appellant challenges DOB’s determination that the Appellant’s proposed use of 86-18 58th Avenue, Queens (“the Premises”) is a transient hotel rather than a “philanthropic or non-profit institution with sleeping accommodations” classified as a Community Facility (Use Group 3) under § 22-13 of the Zoning Resolution of the City of New York (“ZR”); and

WHEREAS, a public hearing was held on this appeal on April 24, 2007, after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

WHEREAS, DOB has been represented by counsel throughout this Appeal, and Appellant has been represented by counsel at various times, although Appellant was represented by one of its directors, Mr. Alec Shtromandel, at the hearing on the Appeal; and

THE APPELLANT

WHEREAS, Appellant represents that it is a New York not-for-profit corporation whose activities, as described on its web site, include, in addition to the provision of sleeping accommodations at the Premises, immigration counseling, English as a second language instruction and educational film screenings, among other things; and

WHEREAS, Appellant’s Certificate of Incorporation lists as its purposes:

To enable students, interns, externs and trainees from around the world to live in a supportive residential community that provides comfortable and secure living accommodations at affordable rates; to promote exposure to the cultural, educational and professional opportunities available in the New York City metropolitan area; to enable students, interns, externs and trainees from around the world to experience American culture and society; to facilitate respect and understanding among residents with diverse backgrounds; to encourage independence among its residents so they may meet the challenges of an ever changing world. Nothing in the foregoing shall be construed as authorizing the corporation to operate or maintain a charter school, nursery school, kindergarten, elementary school, secondary school, institution of higher education, cable television facility, educational television station pursuant to section 236 of the Education Law, library, museum or historical society or to maintain an historic site, nor to operate a business school or a private school pursuant to the provisions of section 5001 of the Education Law, nor an employment agency pursuant to section 172 of the General Business Law”; and

WHEREAS, Appellant indicates in its Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (the “Application”) that “[r]esidence is available to anyone between the ages of 18 and 35 who is matriculated in an accredited educational institution or enrolled in an internship or externship sponsored by or recognized by an educational institution”; and

PROCEDURAL HISTORY

WHEREAS, on April 22, 2006 DOB issued a Peremptory Vacate Order for the Premises to Appellant, which states:

This order is issued because there is imminent danger to the life and safety of the occupants, in that

A legal convent, 3 story brick building has been converted into a J-1 transient hotel with no fire alarm system throughout. No sprinkler system and no smoke detectors. No C of O or permits for this conversion; and

WHEREAS, on April 22, 2006 DOB issued Appellant seven Notices of Violation for the following conditions at the Premises:

No smoke detectors on 1st, 2nd and 3rd floors. J-1 transient hotel created without proper amount of smoke detectors.

No sprinkler system: on 1st, 2nd and 3rd floor. A J-1 transient hotel created without sprinkler system.

Occupancy contrary to that allowed by Bldg. Dept.

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Records. DOB records C of O # 196258 indicates residence is a legal 25 room convent; converted to J-1 transient hotel. Illegal occupancy noted. At 1st, 2nd and 3rd floors rooms are rented as per day; with residents sharing bath and kitchen. Rooms have bunk beds, linen, table, chair and wash basin. Each room has cooking device.

No fire alarm: a J-1 transient hotel created without fire alarms. No smoke detectors, strobe lights and horns.

Failure to provide 2nd means of egress at 2nd and 3rd floor of J-1 transient hotel. Does not have 2nd means of egress.

No natural light throughout 1st, 2nd and 3rd floor. J-1 transient hotel created without proper natural light.

No ventilation at 1st, 2nd and 3rd floor. Transient hotel created without proper ventilation; and

WHEREAS, on or about June 2, 2006 Appellant submitted an application to DOB for the Premises, which proposed a youth hostel in an R5 zone, and included architectural plans indicating that the proposed use was “J-1 (not for profit sleeping accommodations)” and “use group 3”; and

WHEREAS, on June 5, 2006, a DOB plan examiner issued a Notice of Objections for the application, which noted that the proposed use was a “transient hotel,” which is UG 5 and not permitted in an R5 zone; and

WHEREAS, Appellant subsequent to a meeting on June 8, 2006 requested reconsideration of the Notice of Objections issued on June 5, 2006; and

WHEREAS, on June 16, 2006, DOB denied a reconsideration of the June 5, 2006 Notice of Objections; and

WHEREAS, on July 10, 2006 DOB’s Technical Affairs Unit denied a reconsideration of the Application, and noted that “the proposed facility is a residential use or a hotel”; and

WHEREAS, by a letter dated August 10, 2006, Appellant requested that DOB at its Borough Commissioners’ Technical Meeting reconsider the Final Determination and lift a vacate order that had been issued for the Premises on May 17, 2006; and

WHEREAS, at the Borough Commissioners’ Technical Meeting on August 23, 2006 the attendees unanimously supported the Borough Commissioner’s decision, concluding that:

[T]he main use of the building remains living/sleeping accommodations for foreign students.

Such rooming units are classified as Zoning Use Group 2 and are not permitted in Zoning District R-5 as per ZR 23-22”; and

WHEREAS, as stated above, on August 10, 2006 Appellant’s counsel requested a reconsideration of the prior denial; and

WHEREAS, on or about October 23, 2006 the Acting Queens Borough Commissioner of DOB issued the a final determination that forms the basis of this appeal; and

THE PREMISES

WHEREAS, the Premises is a former convent that has been converted for use as a youth hostel; and

WHEREAS, Appellant represents that it also conducts cultural and educational activities at the Premises; and

WHEREAS, at the Premises, Appellant states that its “facility has dedicated over 1/3 of its space as offices, meeting rooms, study halls, and screening rooms to its core not-for-profit activities”; and

WHEREAS, the remainder of the space is devoted to sleeping accommodations for students matriculated in local schools; and

WHEREAS, the Application further states that “[t]he residence and all activities will be supported through boarding fees paid by the residents”; and

WHEREAS, the Premises is located in an R5 district; and

WHEREAS, the parties agree that a use properly categorized as a “philanthropic or not-for-profit institution with sleeping accommodations” in Use Group 3 under ZR § 22-13 would be as-of-right in an R5 district; and

DISCUSSION

A. DOB’s Authority to Interpret the Zoning Resolution

WHEREAS, Appellant contends that the plain language of ZR § 22-13 requires that because it is a New York not-for-profit corporation and because its facility contains sleeping accommodations, it should be deemed to be a “non-profit institution with sleeping accommodations” under ZR § 22-13, falling within Use Group 3 and therefore permitted as-of-right in an R5 district; and

WHEREAS, Appellant has provided no evidence that residents are required to participate in the cultural and educational activities at the Premises; and

WHEREAS, Appellant claims that ZR § 22-13 does not support DOB’s requirement to show that the sleeping accommodations at the Premises are “a needed support for a program administered for the occupants on the Premises”; and

WHEREAS, DOB argues that it is authorized to ask Appellant to substantiate the proposed Use Group 3 classification for the Premises and not merely to accept that because Appellant is a New York not-for-profit corporation and because the Premises contain sleeping accommodations that it should be deemed to fall within Use Group 3; and

WHEREAS, DOB argues that Appellant’s asserted non-profit status is not dispositive of whether the Premises is operating as a Use Group 3 community facility and that an “expanded analysis” is required to determine that the proposed use of the Premises is as a “philanthropic or non-profit institution” for the purposes of compliance with the ZR (DOB Letter Brief dated April 17, 2006 [“DOB Letter Brief”] at 2); and

WHEREAS, Appellant relies on Manton v. New York City Board of Standards and Appeals, 117 Misc.2d 255, 457 N.Y.S.2d 675 (Sup. Ct. Queens 1982) for the proposition that “[a]ny use which properly falls under this Use Group 3 listing is permitted in an RR5 District as a matter of right, and neither the Buildings Department nor the Board has discretionary authority to refuse this permission”; and

WHEREAS, DOB distinguishes the instant appeal from the facts in Manton v. New York City Board of Standards and Appeals, 117 Misc.2d 255 (N.Y. Sup. Ct.

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1982), which is relied upon by Appellant, in which there was a clear and necessary relationship between the sleeping accommodations and the philanthropic purpose of drug rehabilitation; and

WHEREAS, DOB further observes that the use of a the majority of the space at the Premises for sleeping accommodations provides further evidence that the primary purpose of the Premises is for providing sleeping accommodations and not for philanthropic purposes; and

WHEREAS, Appellant further relies on Raritan Development Corp. v. Silva, 91 N.Y.2d 98, 667 N.Y.S.2d 327 (1997) for the proposition that an agency should follow the plain language of the ZR when “the language is unambiguous and the result not absurd”; and

WHEREAS, the Board finds that Raritan Development Corp. v. Silva, relied upon by Appellant for the proposition that an agency’s interpretation of the ZR should not be followed when its interpretation is contrary to the plain language of the ZR, is distinguishable from the instant appeal because 1) unlike Applebaum v. Deutsch, cited by DOB, a different provision of the ZR was at issue in Raritan, 2) BSA’s interpretation of the language at issue in Raritan had been inconsistent, and 3) because the legislative history of the ZR provision at issue in Raritan provided clarity to the language at issue and the policy behind it; and

WHEREAS, the court in Applebaum v. Deutsch, 66 N.Y.2d 975, 976-77, 489 N.E.2d 1275 (1985), cited by DOB, held that the ZR’s “characterization of nonprofit institutions is not dependent on State or Federal law defining nonprofit institutions,” and held that “[i]t was reasonable for BSA to construe that term in light of both its own experience and the stated purposes of the [ZR] to protect residential areas from traffic and noise associated with commercial uses”; and

WHEREAS, in Applebaum v. Deutsch the Court of Appeals approved DOB’s and the Board’s authority to interpret the term “non-profit institution,” and stated that their interpretation must be “given great weight and judicial deference, so long as the interpretation is neither irrational, unreasonable nor inconsistent with the governing statute” (citing Matter of Trump-Equitable Fifth Ave. Co. v. Gliedman, 62 N.Y.2d 539, 545); and

WHEREAS, DCP’s interpretation of ZR § 22-33, set forth in its letter to the Board dated April 16, 2006 (the “DCP Letter”), which is also to be given great weight under the reasoning of the Court of Appeals in Applebaum v. Deutsch, is consistent with that of DOB in the instant appeal; and

WHEREAS, the Board agrees with DOB that Manton v. New York City Board of Standards and Appeals is distinguishable from the instant appeal because in the drug rehabilitation facility at issue in Manton there was a clear nexus between the provision of sleeping accommodations and the philanthropic or non-profit purpose (the rehabilitation of drug users) as noted in the DCP Letter; and

WHEREAS, the Board finds that even were Appellant’s interpretation of Manton correct, the Manton court found that the petitioners therein lacked standing and therefore the language relied upon by Appellant is mere dicta; and

WHEREAS, the Board finds that it is within DOB’s, DCP’s and its own authority to interpret ZR § 22-13 so as to require a reasonable nexus between the non-profit purpose and its provision of sleeping accommodations; and

WHEREAS, the Board therefore finds that the language of ZR § 22-13 does not unambiguously require any philanthropic or non-profit institution that also offers sleeping accommodations to be classified as a Community Facility within Use Group 3; and

WHEREAS, the Board further agrees that the primary purpose of a “philanthropic or non-profit institution with sleeping accommodations” properly classified within Use Group 3 cannot be the provision of sleeping accommodations; and

B. The Policy Underlying the Zoning Resolution

WHEREAS, DOB states that to accept Appellant’s “permissive” interpretation of ZR § 22-13 would create an exception to the policy of the ZR by allowing hotels and rooming unit providers, merely because of non-profit status, to impermissibly locate their facilities in districts where such uses would otherwise be prohibited (DOB Letter Brief at 3); and

WHEREAS, DOB also argues that adopting Appellant’s interpretation could lead to “transient hotels (under the guise of community facilities) in residential neighborhoods as long as they have State or Federal non-profit status and de minimis, unrelated philanthropic or non-profit programs” (DOB Letter Brief at 3); and

WHEREAS, DOB also argues that “[t]he presence of rooming units and transient hotels in residential neighborhoods where otherwise prohibited, and the allowance of other types of oversized residences merely because of the form of ownership, would seriously degrade the quality of life of such neighborhoods through increased traffic, noise, pollution, etc.” (DOB Letter Brief at 3); and

WHEREAS, the DCP Letter, further supporting DOB’s interpretation of ZR § 22-13, states that “the term ‘philanthropic or not-for-profit institutions with sleeping accommodations’ does not encompass uses having the provision of sleeping accommodations as their mission or purpose” (DCP Letter at 1); and

WHEREAS, the DCP Letter further states:

We understand the provision as intended to apply to institutions for which the provision of sleeping accommodations is necessary to the accomplishment of a community facility purpose of providing “. . . essential services for the residents [ZR § 22-13(1)] . . .” of the area in which the facility is located, such as shelter for the homeless, supportive housing, or drug rehabilitation. This is reflected in the language of the Zoning Resolution, which does not treat “non-profit transient accommodations” as a Use Group 3 community facility, but instead refers to non-profit institutions “with sleeping accommodations”. This formulation indicates that the sleeping accommodations must be related to a philanthropic or non-profit purpose distinct from simply

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providing sleeping accommodations, and that providing sleeping accommodations does not, in and of itself, qualify as a community facility use under this rubric” (DCP Letter at 1); and

WHEREAS, DCP also observes in agreement with DOB that “[a] contrary result could allow for ‘non-profit’ transient hotels in residential districts, as well as student dormitories operated by ‘non-profits’ lacking the necessary relationship to a college or university required by DOB” (DCP Letter at 2); and

WHEREAS, DOB observes that Appellant’s own description of its operations in its certificate of incorporation “provides evidence that the proposed use is primarily rental of rooms and that not a philanthropic or non-profit purpose that is dependent upon such rental” (DOB Letter Brief at 3); and

WHEREAS, the Board finds DOB’s and DCP’s interpretation of ZR § 22-13 as requiring a nexus between the purpose of the not-for-profit and the provision of sleeping accommodations to be consistent with the policies behind the ZR; and

C. Prior City Approval of Youth Hostel

WHEREAS, Appellant points to the Association for World Travel Exchange, Inc., which operates the International Student Center, a “youth hostel offer[ing] 50 beds in dormitory style accommodations” and the International Counselor Exchange Program at its facility at 38 W. 88th Street (the “88th Street Hostel”), “mak[ing] possible the placement of several hundred students and young people from all regions of the world, ages 18-30, to serve as counselors in American Summer Camps” as a similar facility that has been treated as a “philanthropic or non-profit institution with sleeping accommodations” by the Board; and

WHEREAS, DOB distinguishes the case involving the 88th Street Hostel decided by the Board of Standards and Appeals (No. 724-70-A), which involved an appeal of DOB’s objection that the application for the 88th Street Hostel violated provisions of the Multiple Dwelling Law, and notes that questions involving the Use Group were not before the Board; and

WHEREAS, the case of the 88th Street Hostel also differs from the present appeal in that the 88th Street Hostel had much less space devoted to residential purposes and more space devoted to its programmatic purposes than does the Premises; and

WHEREAS, on January 31, 2007, a DOB inspector found that the 88th Street Hostel had no requirement that any potential resident be enrolled in any program, whether offered at the 88th Street Hostel or elsewhere, and issued the 88th Street Hostel a violation for operating a Use Group 5 transient hotel with a Use Group 3 Certificate of Occupancy; and

D. Appellant’s Alleged Reliance of DOB Assurances

WHEREAS, Appellant contends, in its “Statement of Facts,” that “[i]n order to lift the vacate order, [Appellant was] granted approvals by the NYC DOB plan examiners in the Borough of Queens for J-1 Occupancy based on the Use of the

Building under Use Group 3 of the NYC Zoning Resolution”; and

WHEREAS, Appellant further argues that, “[a]cting on those approvals, Forest Hills Student Residence installed a Fire Alarm System and a Sprinkler system, incurring \$100,000 in expenses,” but neither the vacate order nor the Final Determination was subsequently rescinded; and

WHEREAS, DOB denies that it approved the proposed Use Group 3 classification of the Premises in its discussions with Appellant over lifting the vacate order issued for illegal conversion of the existing convent into a J1 transient hotel without a proper fire alarm system; and

WHEREAS, Appellant produces no documentary evidence in support of its contention that Queens DOB plan examiners made any representations that Appellant’s operations would be deemed to fall within Use Group 3 after installation of the fire alarm and sprinkler system, nor does it identify the persons alleged to have given such assurances; and

WHEREAS, although not relevant to the Board’s decision, in the absence of any documentary evidence to the contrary, the Board finds credible DOB’s denial that it gave Appellant any assurances that it would deem Appellant’s operations at the Premises to fall within Use Group 3 after Appellant installed the fire alarm and sprinkler system; and

CONCLUSION

WHEREAS, the Board finds that ZR § 22-13 does not unambiguously require that any “philanthropic or non-profit institution” that provides “sleeping accommodations” is necessarily a Community Facility falling within Use Group 3 and therefore permitted in an R5 district; and

WHEREAS, the Board finds that DOB has the authority to interpret the requirements of the ZR and that it properly required Appellant to demonstrate a necessary connection between its provision of sleeping accommodations and its educational and cultural mission as properly required by DOB; and

WHEREAS, the Board finds DOB’s interpretation of the ZR in refusing to deem Appellant’s operations at the Premises to be a “philanthropic or non-profit institution with sleeping accommodations” and therefore a Community Facility within Use Group 3 to be consistent with the language of the ZR and the policy underlying it; and

WHEREAS, the Board further agrees that the primary purpose of a “philanthropic or non-profit institution with sleeping accommodations” properly classified within Use Group 3 cannot be the provision of sleeping accommodations; and

WHEREAS, the Board finds that the sleeping accommodations provided by Appellant are either its primary purpose or, if its primary purpose is educational or cultural, that they have no necessary relationship to such purpose(s); and

WHEREAS, the Board finds that Appellant has failed to demonstrate the required nexus between its philanthropic purpose and the provision of sleeping accommodations; and

WHEREAS, Board finds that DOB’s and DCP’s interpretation of ZR § 22-13 is consistent with the policy of the ZR to keep transient hotels and like uses such as

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dormitories lacking a connection with a college or university out of residential neighborhoods; and

WHEREAS, the Board finds Appellant's reliance on New York case law and on the prior approval of a youth hostel on 88th Street to be misplaced; and

Therefore it is Resolved that the instant appeal, seeking a reversal of the Final Determination of the Queens Borough Commissioner, dated June 16, 2006, determining that the proposed use of the Premises was a transient hotel rather than a "philanthropic or non-profit institution with sleeping accommodations" and therefore a Community Facility within Use Group 3, is hereby denied.

Adopted by the Board of Standards and Appeals, June 19, 2007.

55-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Karen & Jerry Trollo, owners.
SUBJECT – Application February 27, 2007 – Proposed reconstruction and enlargement of a single family dwelling and the upgrade of an existing private disposal system located within the bed of mapped street (Oceanside Avenue) contrary to General City Law Section 35. R4 Zoning District.

PREMISES AFFECTED – 3 Devon Walk, southeast corner of Devon Walk and Oceanside Avenue, Block 16350, Lot p/o 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated February 12, 2007, acting on Department of Buildings Application No. 40253220, which reads in pertinent part:

“The existing building to be reconstructed and altered lies within the bed of a mapped contrary to General City Law Article 3, Section 35; and

The proposed upgraded private disposal system is in the bed of a mapped contrary to General City Law Article 3, Section 35 and Department of Buildings Policy”; and

WHEREAS, a public hearing was held on this application on June 19, 2007 after due notice by publication in the *City Record*, and then to decision on that same date; and

WHEREAS, by letter dated March 6, 2007, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated March 30, 2007, the Department of Environmental Protection states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated May 9, 2007, the Department of Transportation (DOT) states that it has reviewed the application and has no objections; and

WHEREAS, the Board notes that DOT did not indicate that it intends to include the applicant's property in its ten-year capital plan; and

WHEREAS, based upon the above, the applicant has submitted adequate evidence to warrant this approval.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 12, 2007, acting on Department of Buildings Application No. 402523220, 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 February 27, 2007 ”-(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, June 19, 2007.

56-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Jacqueline & Terence Donohoe, lessees.

SUBJECT – Application February 27, 2007 – Proposed Reconstruction and enlargement of an existing single family home and the upgrade of an existing private disposal system located within the bed of a mapped street (Bayside Drive is contrary to General City Law Section 35 and Buildings Dept. Policy. R4 Zoning District.

PREMISES AFFECTED – 13 Bayside Roxbury, intersection of Mapped Bayside Drive and unmapped Roxbury Avenue, Block 16340, Lot p/o 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins,

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Commissioner Ottley-Brown and Commissioner Hinkson.....4
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated February 5, 2007, acting on Department of Buildings Application No. 402508256 which reads in pertinent part:

“The existing building to be reconstructed and altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35; and
The proposed upgraded private disposal system is in the bed of a mapped contrary to General City Law Article 3, Section 35 and Department of Buildings Policy”; and

WHEREAS, a public hearing was held on this application on June 19, 2007 after due notice by publication in the *City Record*, and then to decision on that same date; and

WHEREAS, by letter dated March 6, 2007, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated March 30, 2007, the Department of Environmental Protection states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated May 9, 2007, the Department of Transportation (DOT) states that it has reviewed the application and has no objections; and

WHEREAS, the Board notes that DOT did not indicate that it intends to include the applicant’s property in its ten-year capital plan; and

WHEREAS, based upon the above, the applicant has submitted adequate evidence to warrant this approval.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 12, 2007, acting on Department of Buildings Application No. 402508256, 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 February 27, 2007”-(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, June 19, 2007.

232-06-A

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Sunset Park, LLC, owner.

SUBJECT – Application September 11, 2006 – Proposed two family dwelling that does not front on a legally mapped street contrary to Article 3, Section 36 of the General City Law. R3-1 Zoning District.

PREMISES AFFECTED – 28 Sand Court, South side of Sand Court, 157 feet west of Father Capodanno Boulevard, Block 3122, Lot 213, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD – Laid over to July 10, 2007, at 10 A.M., for decision, hearing closed.

37-07-A

APPLICANT – Cozen O’Connor Attorneys, for 56-50 Main Street Realty, LLC, owner.

SUBJECT – Application June 19, 2007 – Proposed construction of a Commerce Bank located within the bed of Booth Memorial Avenue contrary to General City Law Section 35. C1-3/R5B.

PREMISES AFFECTED – 56-50 through 56-56 Main Street, northwest corner of Main Street and Booth Memorial Avenue, Block 5133, Lots 10 & 25, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Peter Geis.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD – Laid over to July 10, 2007, at 10 A.M., for decision, hearing closed.

96-07-A

APPLICANT – Sheldon Lobel, P.C., for 4175 Building Corp., owner.

SUBJECT – Application April 20, 2007 – Appeal challenging Department of Buildings determination that since both buildings contain Community Facility uses, Section 24-551 of the Zoning Resolution which regulates side setbacks must be complied with. R5 Zoning District.

PREMISES AFFECTED – 41-30/34 75th Street, 41st Avenue and Woodside Avenue, Block 1494, Lots 48 & 49, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Irving Minkin.

For Opposition: Janina Gaylard.

ACTION OF THE BOARD – Laid over to July 24,

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2007, at 10 A.M., for continued hearing.

Jeffrey Mulligan, Executive Director

Adjourned: A.M.

REGULAR MEETING TUESDAY AFTERNOON, JUNE 19, 2007 1:30 P.M.

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

ZONING CALENDAR

183-05-BZ

CEQR #06-BSA-010Q

APPLICANT – Joseph Morsellino, Esq., for Dimitrios Spanos.

SUBJECT – Application August 5, 2005 – Variance (§72-21) to allow the residential redevelopment and enlargement of an existing two-story commercial building. The proposed multiple dwelling building will be six (6) floors and will contain ground floor commercial space. Twenty (20) dwelling units and ten (10) accessory parking spaces are proposed. The proposal is contrary to use regulations (§42-00). M1-3D district.

PREMISES AFFECTED – 25-09 38th Avenue, north east corner of the intersection of Crescent Street and 38th Avenue, Block 368, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Collins,
Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Adopted by the Board of Standards and Appeals, June 19, 2007.

141-06-BZ

CEQR #07-BSA-002K

APPLICANT– Eric Palatnik, P.C., for Congregation Tehilo Ledovid, owner.

SUBJECT – Application July 6, 2006 – Variance pursuant to §72-21 to permit the proposed three-story synagogue. The

Premise is located in an R5 zoning district. The proposal includes waivers relating to floor area and lot coverage (§24-11); front yards (§24-34); side yard (§24-35); wall height and sky exposure plane (§24-521); and parking (§25-31). PREMISES AFFECTED – 2084 60th Street, southwest corner of 21st Avenue and 60th Street, Block 5521, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins,
Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 14, 2007, acting on Department of Buildings Application No. 302159751, reads, in pertinent part: “Proposed new building is contrary to the following zoning sections:

- (1) ZR 24-11 FAR & Lot Coverage
- (2) ZR 24-34 Front Yards
- (3) ZR 24-35 Side Yards
- (4) ZR 25-31 No. of Parking Spaces.”; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21, to permit, on a site within an R5 zoning district within the Special Borough Park District, a proposed three-story and cellar Use Group 4 synagogue, which does not comply with floor area, FAR, lot coverage, front yards, side yards, and parking requirements for community facilities, contrary to ZR §§ 24-11, 24-34, 24-35, and 24-31; and

WHEREAS, a public hearing was held on this application on November 21, 2006, after due notice by publication in *The City Record*, with continued hearings on January 9, 2007 and March 13, 2007, and April 17, 2007, and then to decision on June 19, 2007; and

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

WHEREAS, Community Board 12, Brooklyn, recommends approval of the application with the condition that the third floor (of the originally-proposed building) be set back ten feet; and

WHEREAS, Neighbors for the Preservation of 60th Street (the “Opposition”), individually and through counsel, appeared in opposition to the proposal, citing concerns about: (1) whether or not the applicant had met the requirement of § 72-21(a); (2) impact on neighborhood character; (3) illegal and unsafe demolition including improper asbestos disposal; and (4) traffic/parking impact; and

WHEREAS, certain other neighbors provided testimony in opposition to the proposal, citing the same concerns; and

WHEREAS, the applicant submitted approximately 60 consent forms submitted by community members in support of

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the proposal; and

WHEREAS, this application is being brought on behalf of Congregation Tehilo Ledovid, a non-profit religious entity (the "Synagogue"); and

WHEREAS, the subject premises is located on the southwest corner of 21st Avenue and 60th Street, and is currently vacant except for remnants of a foundation; and

WHEREAS, during the hearing process, the proposal was revised several times; the current proposal provides for a three-story and cellar synagogue with the following parameters: a street wall of 33'-6", a building height at the top of the parapet wall of 36'-11", and a total height with bulkhead of 41'-7", with 7,008 sq. ft. of floor area (5,400 sq. ft. is the maximum permitted); and an FAR of 2.59 (2.0 FAR is the maximum permitted for a community facility), with Use Group 4 synagogue use space on the cellar level through third floor; and

WHEREAS, additionally, the applicant proposes 86.5 percent lot coverage (a maximum of 60 percent is permitted); one side yard of 8'-0" at the rear of the site along the southwest lot line (two side yards of 11.35 feet each are the minimum required) and one front yard of 5'-6" along 60th Street (two front yards of 10'-0" each are the minimum required); and

WHEREAS, the proposed building will have the following program: (1) a dining area and separate mikvah for men and women in the cellar; (2) synagogue space on the first and second floors; (3) a study, rabbi's office, and library on the third floor; and (4) a terrace to be used for Succoth on the roof; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue: (1) to accommodate the congregation of approximately 100 adults; (2) to provide separate space for men and women during prayer and mikvah; (3) to provide space for small meetings and gatherings; and (4) to accommodate a rabbi's office, library, and study hall; and

WHEREAS, the applicant states that the proposed amount of space would accommodate the congregation of 100 adults, which currently meets in the cellar of a nearby home with a capacity of only 35 people; the as-of-right scenario would only accommodate 55 adults in the proposed synagogue; and

WHEREAS, the applicant states that it is religious tradition to provide separate space for men and women during prayer and in the mikvah; and

WHEREAS, the applicant represents that meeting space is required for educational programs accessory to the Synagogue and for groups to meet outside of the worship space; and

WHEREAS, the applicant represents that the rabbi requires space to lecture and counsel congregants in groups of two to twenty; he also requires facilities to store religious texts and provide instruction; and

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

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, however, the applicant also presents the following site conditions which create an unnecessary hardship in developing the site in compliance with applicable regulations, as to lot coverage and yards: the corner site has a width of 27'-0" and if both the required 10'-0" front yard were provided along 21st Avenue and the required 11.35 ft. side yard were provided along the shared lot line where the party wall existed, the complying building would have a width of only 5.65 feet; even if the party wall condition remained and only the front yard along 21st Avenue were provided, the building would still only have a width of approximately 17'-0"; and

WHEREAS, the applicant notes that this second scenario, maintaining the present lot line condition, would result in a complying building which would be too narrow to accommodate the congregation; the resultant floor plates would be small and inefficient with a significant portion of both space and floor area allocated toward circulation space, egress, and exits; and

WHEREAS, the applicant states that the required floor area cannot be accommodated within the as-of-right lot coverage and yard parameters and allow for efficient floor plates that will accommodate the Synagogue's programmatic needs, thus necessitating the requested waivers of these provisions; and

WHEREAS, the applicant argues that the requested yard waivers would enable the Synagogue to develop the site with a building with viable floor plates; and

WHEREAS, the applicant states that in addition to facilitating a uniform floor plate, the waivers also allow the Synagogue's height to fit into the context of the neighborhood; and

WHEREAS, based upon the above, the Board finds that the aforementioned physical conditions, when considered in conjunction with the programmatic needs of the Synagogue, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

WHEREAS, the applicant notes that the proposed use is permitted in the subject zoning district; and

WHEREAS, the Board notes that the immediate area is characterized by two- and two-and-a-half-story semi-detached

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homes; and

WHEREAS, the applicant initially proposed a 8,100 sq. ft. three-story with attic building (3.0 FAR) with a street wall height of 44'-0" (35'-0" is the maximum permitted), 100 percent lot coverage (60 percent is the maximum permitted), no front or side yards, and no parking spaces (nine were required in that scenario); and

WHEREAS, at hearing, the Board directed the applicant to decrease the floor to floor heights, eliminate the attic, and reduce the rooftop mechanicals in an effort to reduce the street wall and total building height and to be more compatible with the neighborhood context; and

WHEREAS, in response, and as noted above, the applicant reduced the street wall height to a complying 33'-6" and the total height, with bulkhead, to 41'-7"; and

WHEREAS, the Board also directed the applicant to provide a front yard along 60th Street where there is a context for front yards, and a 8'-0" side yard at the rear thereby reducing the amount of lot coverage and impact on adjacent neighbors; and

WHEREAS, the applicant provided a land use map with details about front yards along 21st Avenue, which reflects that four out of the five other buildings on the subject site's side of 21st Avenue within the 400 sq. ft. radius are built to the lot line on 21st Avenue; and

WHEREAS, the Board notes that both 60th Street and 21st Avenue are wide streets with widths of 80'-0"; and

WHEREAS, as to traffic impact and parking, the applicant noted that the traffic impact would be minimal as a majority of congregants live nearby and would walk to services, specifically to worship services on Fridays and Saturdays when they are not permitted to drive; and

WHEREAS, the applicant provided a traffic and parking study which showed that there were approximately 100 available parking spaces within 400 sq. ft. of the site within each one-hour period that the study was performed; and

WHEREAS, the applicant represents that this proposal would meet the requirements for a parking waiver at the City Planning Commission, pursuant to ZR § 25-35 – Waiver for Locally Oriented Houses of Worship; and

WHEREAS, in support of this assertion, the applicant submitted evidence reflecting that at least 75 percent of the congregants live within three-quarters of a mile of the subject site; and

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

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

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

WHEREAS, as noted, through the hearing process, the applicant revised the proposal to eliminate the height waiver

and reduce the floor area, FAR, lot coverage, and parking waiver (from nine to eight) while increasing the size of the yards; and

WHEREAS, the Board considered the modifications noted above and finds the requested waivers to be the minimum necessary to afford the Synagogue the relief needed both to meet its programmatic needs and to construct a building that is compatible with the character of the neighborhood; and

WHEREAS, the Board has reviewed the Opposition's concerns and notes the following: (1) the requirements of ZR § 72-21(a) are met by the demonstration of legitimate programmatic needs and the limitations of the site in meeting those goals; (2) the applicant has modified the proposal to provide for a building with a bulk and yards that are compatible with neighborhood context; (3) the applicant has provided proof of a DEP asbestos inspection, which shows proper removal, and proof of DOB demolition permits; and (4) the applicant has provided a satisfactory traffic/parking analysis; and

WHEREAS, as to the demolition and asbestos removal, the Board notes that the site has now been cleaned and cleared and the applicant is curing any outstanding ECB and DOB violations; and

WHEREAS, this grant is conditioned on the complete resolution of any outstanding issues; and

WHEREAS, additionally, the applicant agreed to include the following changes to the proposal, some of which are noted in the conditions below: (1) the addition of an interior garbage storage area at the cellar and first floor level; (2) the addition of opaque privacy windows; (3) relocation of the mechanicals to minimize impact on neighbors and the addition of an acoustic baffle enclosure; and (4) the limitation of the kitchen as a warming kitchen, to preclude commercial catering; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No.07BSA002K, dated June 30, 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

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action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, 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 R5 zoning district within the Special Borough Park District, a proposed three-story and cellar Use Group 4 synagogue, which does not comply with floor area, FAR, lot coverage, front yards, side yards, and parking requirements for community facilities, contrary to ZR §§ 24-11, 24-34, 24-35, and 24-31, *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 6, 2007” – nine (9) sheets; and *on further condition*:

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

THAT the building parameters shall be: a floor area of 7,008 sq. ft. (2.59 FAR), three stories, a street wall height of 33’-6”, a lot coverage of 86.5 percent, one front yard of 5’-6” on 60th Street, and one side yard of 8’-0” on the rear/southwest lot line;

THAT the use shall be limited to a house of worship (Use Group 4) and any classes shall be accessory to this use;

THAT the use of the cellar kitchen shall be limited to warming;

THAT no commercial catering shall take place onsite;

THAT the site, during construction and under regular operation, shall be maintained safe and free of debris;

THAT garbage shall be stored inside the building except when in the designated area for pick-up;

THAT the use of the rooftop shall be limited to the Jewish holiday of Succoth and then only between the hours of 7:00 a.m. and 8:00 p.m.;

THAT any and all lighting shall be directed downward and away from adjacent residences;

THAT an acoustic baffle enclosure shall be constructed around the rooftop mechanicals;

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

THAT no building permit shall be issued until all ECB and DOB violations have been cured;

THAT rooftop mechanicals shall comply with all applicable Building Code and other legal requirements, including noise guidelines, as reviewed and approved by the Department of Buildings;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant

laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 19, 2007.

314-06-BZ

CEQR #07-BSA-041K

APPLICANT – Eric Palatnik, P.C., for Mikhail Kremerman, owner; Yana’s Spa, lessee.

SUBJECT – Application December 6, 2006 – Special Permit (§73-36) to permit the proposed Physical Culture Establishment (a/k/a spa) at the cellar level of the proposed structure.

PREMISES AFFECTED – 2565 East 17th Street, Block 7438, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 14, 2006, acting on Department of Buildings Application No. 302093909, reads in pertinent part:

“Proposed change of cellar occupancy from commercial office to a physical culture or health establishment is permitted only with a special permit from the Board of Standards and Appeals and is hereby referred to them for review”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C8-1 zoning district, the establishment of a physical culture establishment (PCE) in a portion of the cellar level of a new two-story mixed-use ambulatory care facility/office building, contrary to ZR § 32-00; and

WHEREAS, a public hearing was held on this application on May 22, 2007 after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

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

WHEREAS, the subject site is located on the east side of East 17th Street, between Avenue Y and Avenue Z; and WHEREAS, the PCE will occupy approximately 2,511 sq. ft. of floor space in the cellar; and

WHEREAS, the applicant represents that the PCE will offer spa treatments including massages, manicures, facials, hydrotherapy, and laser treatments; and

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

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

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

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 07BSA041K, dated April 17, 2007; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C8-1 zoning district, the establishment of a physical culture establishment in a portion of the cellar level of a new two-story mixed-use ambulatory care facility/office building, contrary to ZR § 32-00; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 24, 2007"-(1) sheet and "Received June 13, 2007"-(1) sheet and *on further condition*:

THAT the term of this grant shall expire on June 19, 2017;

THAT there shall be no change in ownership or

operating control of the physical culture establishment without prior application to and approval from the Board;

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, June 19, 2007.

15-07-BZ CEQR #07-BSA-054X

APPLICANT – Slater & Beckerman, LLP, for Bronx Lebanon Hospital Center, owner.

SUBJECT – Application January 11, 2007 – Variance (§ 72-21) to allow a new nine (9) story hospital building (U.G. 4) that exceeds maximums for floor area ratio (§ 24-11), lot coverage (§ 24-11) and height and setback (§ 24-522). R8 zoning district.

PREMISES AFFECTED – 199 Mt. Eden Parkway, between Selwyn Avenue and Morris Avenue, Block 2824, Lot 19, Borough of Bronx.

COMMUNITY BOARD #4BX

APPEARANCES –

For Applicant: Slater and Beckerman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Bronx Borough Commissioner, dated January 11, 2007, acting on Department of Buildings Application No. 201095215, reads in pertinent part:

“This project, a proposed Ambulatory Care Center to be developed by the Bronx Lebanon Hospital Center, requires a variance under ZR 72-21, due to the non-compliance in floor area under ZR 24-11, lot coverage under ZR 24-11, for sky exposure plane under ZR 24-522, and wall height under ZR 24-522”;

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and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R8 zoning district, the proposed construction of a nine-story Use Group 4 hospital building, (the "Proposed Building"), which does not comply with applicable zoning requirements concerning floor area, lot coverage, sky exposure plane, and wall height, contrary to ZR §§ 24-11 and 24-522; and

WHEREAS, this application was brought on behalf of the Bronx Lebanon Hospital (the "Hospital"), a not for profit institution; and

WHEREAS, a public hearing was held on this application on June 5, 2007, after due notice by publication in the *City Record*, and then to decision on June 19, 2007; and

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

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

WHEREAS, City Council Member Maria Baez provided testimony in support of this application; and

WHEREAS, the site is located on the northwest corner of Mt. Eden Parkway and Morris Avenue, within an R8 zoning district; and

WHEREAS, the site has a total lot area of 6,700 sq. ft.; and

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

WHEREAS, the Proposed Building is nine stories with a mechanical penthouse and has a wall height of 126'-0" and a total height of 148'-0"; it will occupy a floor area of 55,175 sq. ft. (8.24 FAR); and

WHEREAS, the non-complying parameters are as follows: (1) a lot coverage of 92 percent (75 percent is the maximum permitted); (2) a floor area of 55,175 sq. ft. (8.24 FAR) (a maximum floor area of 43,550 sq. ft. (6.5 FAR) is the maximum permitted); (3) a street wall height of 126'-0" (a street wall height of 85'-0" is the maximum permitted); and (4) an encroachment into the sky exposure plane on portions of the seventh, eighth, and ninth floors and penthouse level; and

WHEREAS, the adjacent building to the west along Mt. Eden Parkway is a 20-story Hospital staff facility, and another 15-story Hospital building is on the next block to the west on Mt. Eden Parkway; and

WHEREAS, the applicant represents that the variance request is necessitated by the programmatic needs of the Hospital, which seeks to expand and reconfigure its existing facilities and enhance its quality of services to better meet the need of increasing community demand for clinical services; and

WHEREAS, specifically, the applicant states that the following are the programmatic space needs of the Hospital: (1) to accommodate the increased demand for outpatient facilities; (2) to consolidate existing facilities located at different Hospital buildings in the vicinity; and (3) to relieve overcrowding and free up space in other Hospital buildings; and

WHEREAS, as to the demand for outpatient facilities, the applicant states that its goal is to promote outreach and to better

serve the affected community's social and health needs; and

WHEREAS, the applicant submitted information about the specific medical needs of the community, which encompasses the South Bronx neighborhoods of Highbridge-Morrisania, Hunts Point-Mott Haven, and the Central Bronx neighborhood of Crotona-Tremont, all with significant low income and minority populations; and

WHEREAS, specifically, these communities are among the poorest in the nation and are federally designated as Medically Underserved Areas and Health Professional Shortage Areas; and

WHEREAS, the Hospital is the largest voluntary, not-for-profit health care system serving this community; and

WHEREAS, as to the space needs, the outpatient facilities are currently located in five different Hospital buildings; and

WHEREAS, the applicant states that the program, including radiology and adult medicine, will be consolidated into the Proposed Building to allow for improved operational efficiency; and

WHEREAS, this reorganization will also free up space in other Hospital buildings to relieve overcrowding and allow for expansion of those services; and

WHEREAS, additionally, the applicant represents that the proposed amount of floor area is required to accommodate the program and that a complying building would not be able to provide the necessary space for the surgical and cardiology outpatient care units; and

WHEREAS, the applicant represents that a complying building would only be able to accommodate 48 examination rooms as opposed to the proposed 88 examination rooms and six radiology diagnostic rooms; and

WHEREAS, the applicant notes that the lot coverage and height and setback waivers are required in order to provide efficient floor plates and sufficient space to adequately address the demand for care and outreach; and

WHEREAS, the applicant represents that due to the amount of floor area required for the core and egress, smaller floor plates would be considerably less efficient; and

WHEREAS, the applicant further states that the sky exposure plane encroachment on the seventh, eighth, and ninth floors will allow for uniform floor plates for all floors except the mechanical penthouse and this promotes more efficient use of the Hospital space, more efficient use of Hospital staff, greater patient comfort and substantially reduced construction and operating costs; and

WHEREAS, at hearing, the Board asked the applicant to explain why an entire mechanical penthouse was required; and

WHEREAS, the applicant responded that a large amount of mechanical space was required, in part, to support the necessary radiology equipment and that providing it all within the mechanical penthouse helped maximize efficiency; and

WHEREAS, the Board notes that the mechanical penthouse will be set back 20 feet on the Mt. Eden Avenue frontage and 15 feet on the Morris Avenue frontage and only minimally encroaches into the sky exposure plane on the

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Morris Avenue side, but not at all on the Mt. Eden Parkway side; and

WHEREAS, the Board credits the applicant's statements as to the Hospital's programmatic needs and the limitations of a complying development; and

WHEREAS, the Board also notes that the Proposed Building must be constructed at a location within close proximity to the site such that it can integrate with the other Hospital buildings, which makes this the most efficient and logical location; and

WHEREAS, based upon the above, the Board finds that the close proximity of the existing Hospital buildings to the site, when considered in conjunction with the programmatic need of the Hospital to construct the Proposed Building, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

WHEREAS, the applicant notes the immediate surrounding neighborhood is developed with a mix of medium to high density institutional and residential buildings, including the Hospital buildings noted above, additional nearby Hospital buildings, and several residential buildings with heights of two to nine stories; and

WHEREAS, the applicant notes that Mt. Eden Parkway has a width of 165 feet and Morris Avenue has a width of 80 feet which are compatible with the proposed building bulk; and

WHEREAS, further, the applicant represents that the proposed sky exposure encroachment will only be minimally visible; and

WHEREAS, the Board also notes that because the Proposed Building will be located on the corner of two wide streets, the height and setback non-compliances will have minimal impact; and

WHEREAS, the applicant represents that since 1951, the subject zoning lot has been occupied with Hospital-related uses; the prior Hospital building at the site was demolished and replaced with an accessory parking lot; and

WHEREAS, at hearing, the Board asked the applicant if it would be possible to provide fenestration on the first floor; and

WHEREAS, the applicant responded that, due to patient privacy and safety concerns, the fenestration on the first floor on Mt. Eden Parkway must be limited, but that some could be provided on Morris Avenue; and

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

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

WHEREAS, additionally, the Board finds that this proposal is the minimum necessary to afford the owner relief, since the Proposed Building is designed to address the Hospital's programmatic needs; and

WHEREAS, based upon the above, 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 Section 617 of 6 NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA054X, dated January 11, 2007; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R8 zoning district, the proposed construction of a nine-story Use Group 4 hospital building, which does not comply with applicable zoning requirements concerning floor area, lot coverage, sky exposure plane, and wall height, contrary to ZR §§ 24-11 and 24-522, *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 5, 2007"—nine (9) sheets and "Received May 4, 2007"—one (1) sheet and *on further condition*:

THAT the new building will have the following parameters: a total floor area of 55,175 sq. ft. (8.24 FAR); a street wall height of 126 feet, and a total height of 148 feet, 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;

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

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

Adopted by the Board of Standards and Appeals, June 19, 2007.

57-07-BZ

CEQR #07-BSA-065R

APPLICANT – Omnipoint Communications, Inc., for Wagner College, owner.

SUBJECT – Application March 5, 2007 – Special Permit (§73-30) for a non-accessory radio tower, which is a public utility wireless communications facility and will consist of a 70-foot monopole/light-post, together with antennas (and stadium flood-lights).

PREMISES AFFECTED – 636 Howard Avenue, 75’ east of Highland Avenue and Howard Avenue, Block 597, Lot 65, Borough of Staten Island.

COMMUNITY BOARD # 1SI

APPEARANCES –

For Applicant: Robert Guardioso.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated February 22, 2007, acting on Department of Buildings Application No. 500869367, reads in pertinent part:

“Proposed monopole (Use Group 6) is contrary to NYC Department of Buildings Technical Policy and Procedure Notice 5/98 and therefore not allowable within R3-1 district. Refer to the Board of Standards and Appeals for review pursuant to Section 73-30 of the NYC Zoning Resolution.”; and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to permit, within an R3-1 zoning district, the proposed construction of a non-accessory radio tower for public utility wireless communications, which is contrary to ZR § 22-00; and

WHEREAS a public hearing was held on this application on May 22, 2007 after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

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

WHEREAS, Staten Island Community Board No. 1 recommends approval of this application; and

WHEREAS, the applicant represents that the proposed facility will remedy a significant gap in wireless service in Staten Island; and

WHEREAS, the proposed monopole will be located on the grounds of the Wagner College campus property; and

WHEREAS, the applicant states that the proposed telecommunications facility will consist of a monopole with a maximum height of 80 feet; and

WHEREAS, the proposed monopole has been designed to resemble and will replace an existing light-post at the Wagner College athletic field and will support lights for the athletic field in addition to the proposed antennas and cables; and

WHEREAS, the related equipment cabinets will be located below the existing stadium bleachers and will not be visible to the general public; and

WHEREAS, pursuant to ZR § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the cellular pole proposed, provided it finds “that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood”; and

WHEREAS, the applicant represents that the pole has been designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the construction and operation of the pole will comply with all applicable laws; that no noise or smoke, odor or dust will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, the applicant also states that related equipment cabinets will be concealed beneath the Wagner College athletic field bleachers; and

WHEREAS, the applicant further represents that the height is the minimum necessary to provide the required wireless coverage, and that the pole will not interfere with radio, television, telephone or other uses; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed pole and related equipment will be located, designed, and operated so that there will be no detrimental effect on the privacy, quiet, light, and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at ZR § 73-30; and

WHEREAS, the Board further finds that the subject use will neither alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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

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

WHEREAS, therefore, the Board finds that the application meets the general findings required for special permits set forth at ZR § 73-03; and

WHEREAS, the Board has conducted an environmental

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review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 07-BSA-065R dated March 5, 2007; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and *grants* a special permit under ZR §73-03 and §73-30, to permit, within an R3-1 zoning district, the proposed construction of a non-accessory radio tower for public utility wireless communications, which is contrary to ZR §22-00, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received May 3, 2007”-(4) sheets; and *on further condition*;

THAT any fencing and landscaping will be maintained in accordance with 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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 19, 2007.

75-07-BZ

CEQR #07-BSA-072M

APPLICANT – Law Office of Slater & Beckerman LLP for Hudson Alley, Incorporated, owner; Cadence Cycling & Multisport Centers, lessee.

SUBJECT – Application April 3, 2007 – Special Permit §73-36 – To permit a cellar and on the first floor of six-story building, a Physical Culture and Health Establishment. The Premises are located within an M1-5 zoning district within the Special Tribeca Mixed Use District (Area B1), and in the Tribeca North Historic District.

PREMISES AFFECTED – 174 Hudson Street, Southeast corner of Vestry Street and Hudson Street, Block 220, Lot 31, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Stuart Beckerman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 29, 2007, acting on Department of Buildings Application No. 104697856, reads in pertinent part:

“Physical Culture Establishment (Bicycle Training) is not permitted as of right at M1-5 and is contrary to ZR 42-31.”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5 zoning district within the Special Tribeca Mixed Use District (TMU) and the Tribeca North Historic District, the establishment of a physical culture establishment (PCE) in the cellar and on the first floor of an existing six-story commercial building, contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on June 5, 2007 after due notice by publication in *The City Record*, and then to decision on June 19, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Hinkson; and WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, City Council Member Alan Jay Gerson provided testimony in support of this application; and

WHEREAS, the subject site is located on the southeast corner of Vestry Street and Hudson Street; and

WHEREAS, the site is occupied by a six-story commercial building; and

WHEREAS, the PCE will occupy approximately 6,815 sq. ft. of floor area on the first floor and approximately 2,917 sq. ft. of floor space in the cellar; and

WHEREAS, the applicant represents that the PCE will offer facilities to provide athletic coaching, including a cycling training studio, a physiological testing lab, and a strength and conditioning studio with free weights and weight machines; and

WHEREAS, the PCE will be operated as Cadence Cycling and Multisport Center; and

WHEREAS, the proposed hours of operation are: Monday through Friday, 6:00 a.m. to 8:00 p.m. and Saturday and Sunday, 9:00 a.m. to 6:00 p.m.; and

WHEREAS, at hearing, the Board asked the applicant if there were any residential uses in the subject building; and

WHEREAS, the applicant confirmed that there is no residential use in the building; and

WHEREAS, the applicant submitted a Certificate of No Effect from the Landmarks Preservation Commission, issued March 6, 2007; and

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

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

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satisfactory; and

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 07BSA072M, dated March 22, 2007; and

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

WHEREAS, the Board has determined that the operation of the PCE will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5 zoning district within the Special Tribeca Mixed Use District and the Tribeca North Historic District, the establishment of a physical culture establishment in the cellar and on the first floor of an existing six-story commercial building, contrary to ZR § 42-00; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 3, 2007"–(1) sheet, "Received April 27, 2007"–(2) sheets and "Received June 7, 2007"–(1) sheet; and *on further condition*:

THAT the term of this grant shall expire on June 19, 2017;

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

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

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

THAT Local Law 58/87 compliance shall be as

reviewed and approved by DOB;

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

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

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

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

Adopted by the Board of Standards and Appeals, June 19, 2007.

154-05-BZ

APPLICANT – Kenneth K. Lowenstein, for Broome Thompson, LLC, owner.

SUBJECT – Application June 28, 2005 – Variance (§72-21) to permit the construction of a nine-story mixed-use building which will contain 51 residential units, 7,340 square feet of ground retail uses and a 280-space public parking garage. The premises is located in an M1-5B zoning district. The proposal is contrary to §42-10 (Commercial (Use Group 6) and Residential (Use Group 2) uses are not permitted in a M1-5B zoning district, §42-13 (There are no residential bulk regulations in a M1-5B zoning district), and §13-12 (The proposed public parking garage is not permitted in a residential development.)

PREMISES AFFECTED – 520-528 Broome Street and 530-532 Broome Street/55 Sullivan Street, north side of Broome Street, between Thompson and Sullivan Streets, Block 489, Lots 1 and 41, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Ken Lowenstein, Jack Freeman, Steven Jacobs, David Ford and Issac Astradran.

For Opposition: Grey Elam, Speaker Quinn's Office, Doris Diether of CB#2, Andrew Berman GRSH, Mark Faxon, Gregg Levine, Jack Lestur and Stuart A. Klein.

ACTION OF THE BOARD – Laid over to August 14, 2007, at 1:30 P.M., for continued hearing.

25-06-BZ

APPLICANT– Dominick Salvati and Son Architects, for Josef Packman, owner.

SUBJECT – Application February 14, 2006 – Variance (§72-21) to allow an eight (8) story residential building with ground floor community facility use to violate applicable regulations for dwelling unit density (§23-22), street wall height (§23-631 and §24-521), maximum building height (§23-631), front yard (§24-34), side yards (§24-35 and §24-

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551), FAR (§24-11, §24-162 and §23-141) and lot coverage (§23-141 and §24-11). Project is proposed to include 29 dwelling units and 31 parking spaces. R3-2 district.

PREMISES AFFECTED – 2908 Nostrand Avenue, Block 7690, Lots 79 and 80, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Peter Hirshman.

ACTION OF THE BOARD – Laid over to July 24, 2007, at 1:30 P.M., for continued hearing.

29-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Iliva Honovich, owner.

SUBJECT – Application February 16, 2006 – Zoning variance pursuant to ZR §72-21 to allow a proposed multiple family dwelling containing fourteen (14) dwelling units to violate applicable floor area, open space, lot coverage, density, height and setback, and front and side yards requirements; contrary to ZR §§23-141, 23-22, 23-45, 23-461 and 23-633. Premises is located within an R4 district. PREMISES AFFECTED – 1803 Voorhies Avenue, East 18th Street and East 19th Street, Block 7463, Lots 47, 49, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to July 17, 2007, at 1:30 P.M., for deferred decision, hearing closed.

83-06-BZ

APPLICANT – Eric Palatnik, P.C., for Simon Blitz, owner.

SUBJECT – Application May 2, 2006 – Variance (§72-21) to allow the conversion and two (2) story enlargement of an existing four story industrial building. The proposed multi-family building will contain six (6) floors, ground floor retail use, and fourteen (14) dwelling units. No parking spaces are proposed. The proposal would exceed the maximum floor area ratio (§123-64 (a)) and applicable height and setback requirements (§123-662). The project site is located within the Hunters Point Subdistrict of the Special Long Island City Mixed Use District and is zoned M1-4/R6A (LIC).

PREMISES AFFECTED – 47-33 Fifth Street, north side of 5th Street, between 48th Avenue and 47th Road, Block 30, Lot 26, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to October 2, 2007, at 1:30 P.M., for adjourned hearing.

163-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rokeva Begum, owner.

SUBJECT – Application July 25, 2006 – Variance (§72-21) to permit the proposed construction of two (2), three (3)

story, three (3) family buildings on one zoning lot. The proposal is requesting waivers with respect to the open space ratio (§23-141c), front yard (§23-45), side yards (§23-462), and off-street parking (§25-22). R5 zoning district.

PREMISES AFFECTED – 72-36 and 72-38 43rd Avenue, Block 1354, Lots 25 and 27, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Irving Minkin.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2007, at 1:30 P.M., for decision, hearing closed.

215-06-BZ

APPLICANT – Vassalotti Associates Architects, LLP., for Cumberland Farms, Inc., owner.

SUBJECT – Application August 24, 2006 – Special Permit (§11-411) for the re-establishment and extension of term for an existing gasoline service station, which has been in continuous operation since 1955. C1-2/R2 zoning district. PREMISES AFFECTED – 202-06 Hillside Avenue, southeast corner of Hillside Avenue and 202nd Street, Block 10496, Lot 52, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2007, at 1:30 P.M., for decision, hearing closed.

286-06-BZ

APPLICANT – Eric Palatnik, P.C., for Avrohom Horowitz, owner; Congregation Darkel Chaim, Inc., lessee.

SUBJECT – Application October 20, 2006 – Variance (§72-21) to permit the proposed two-story addition to the rear of the three-story structure which is currently under construction and to allow for the inclusion of a Use Group 4 synagogue at the premises. The premises is located in an R5 (Borough Park) zoning district. The proposal is contrary to floor area (§24-162a), side yards (§24-35), and the number of stories (§24-33).

PREMISES AFFECTED – 1847 60th Street, north side of 60th Street, between 18th Avenue and 19th Avenue, Block 5512, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to August 7, 2007, at 1:30 P.M., for continued hearing.

MINUTES

308-06-BZ

APPLICANT – Eric Palatnik, P.C., for David Levitan, owner.

SUBJECT – Application November 22, 2006 – Special Permit (§73-622) for the enlargement of two semi-attached single family homes to be converted to a detached single family home. This application seeks to vary open space and floor area (§23-141(a)) and rear yard (§23-47) in R-2 zoning district.

PREMISES AFFECTED – 1458-1460 East 26th Street, between Avenue “N” and Avenue “O”, Block 7679, Lots 77 & 79, Borough Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Commissioner Ottley-Brown and Commissioner Hinkson.....3

Negative:.....0

Abstain: Vice-Chair Collins.....1

ACTION OF THE BOARD – Laid over to July 17, 2007, at 1:30 P.M., for decision, hearing closed.

315-06-BZ

APPLICANT– Eric Palatnik, P.C., for Merkaz, The Center, Inc., owner.

SUBJECT – Application December 6, 2006 – Variance (§72-21) to permit the proposed three-story religious-based pre-school, which will include an accessory synagogue. The premises is located within two zoning districts, an R5B and R2, with the vast majority (95%) resting within the R5B district. The proposal is contrary to §§24-11, 24-34, 24-35, 24-36 and 24-521.

PREMISES AFFECTED – 1739 Ocean Avenue, between Avenues L and M, Block 7638, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to August 7, 2007, at 1:30 P.M., for continued hearing.

319-06-BZ

APPLICANT– Sheldon Lobel, P.C., for 211 Service LLC., owner.

SUBJECT – Application December 8, 2006 – Special Permit pursuant to §73-49 to allow seventy-five (75) accessory parking spaces for an automotive service establishment (UG 16) on the rooftop of an existing building. M1-1 district.

PREMISES AFFECTED – 211/283 63rd Street, located on the north side of 63rd Street, between 2nd and 3rd Avenues, Block 5798, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Richard Lobel and Peter Barletta.

ACTION OF THE BOARD – Laid over to July 24, 2007, at 1:30 P.M., for continued hearing.

71-07-BZ

APPLICANT– Walter T. Gorman, P.E., for Exxon Mobile Corporation, owner; Ted Zorbas, lessee.

SUBJECT – Application March 26, 2007 – Re-instatement for the continued use of a Variance (ZR §11-411 and §73-01(d)) which expired June 27, 2001 for the operation of a UG16 Gasoline Service Station (Exxon Mobil) in anC1-4/R-6 & R-5 zoning district.

PREMISES AFFECTED – 32-05 21st Street, south side 21st Street blockfront between Broadway and 33rd Avenue, Block 555, Lot 16, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: John Ronan.

ACTION OF THE BOARD – Laid over to July 24, 2007, at 1:30 P.M., for continued hearing.

97-07-BZ

APPLICANT– The Law Office of Fredrick A. Becker, for Atlas Park, LLC, owner; TSI Glendale Inc., dba New York Sports Club, lessee.

SUBJECT – Application April 24, 2007 – Special Permit (§73-36) to legalize the operation of a PCE on the second floor of a two-story commercial building within a commercial mall complex. The proposal is contrary to the use regulations of section 32-00. The Premises is located in a M1-1 zoning district.

PREMISES AFFECTED – 80-16 Cooper Avenue, southerly side of Cooper Avenue and the easterly side of 80th Street, Block 3810, Lot 350, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2007, at 1:30 P.M., for decision, hearing closed.

101-07-BZ

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

SUBJECT – Application April 26, 2007 – Special Permit (§73-622) for the enlargement of an existing single family detached residence. This application seeks to vary open space and floor area (§23-141) and side yard (§23-461) in an R-2 zoning district.

PREMISES AFFECTED – 2306 Avenue M, south side, 40th east of East 23rd Street, between East 23rd and East 24th Streets, Block 7627, Lot 42, Borough of Brooklyn.

MINUTES

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Harold Weinberg, Moshe Blumenkranz, Richel Blumenkranz and other.

For Opposition: Joseph Bergman and Lisa Rothman.

ACTION OF THE BOARD – Laid over to July 17, 2007, at 1:30 P.M., for continued hearing.

104-07-BZ

APPLICANT– Lewis E. Garfinkel, R.A., for Rochelle Mandel, owner.

SUBJECT – Application April 30, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (§23-141(a)); side yard (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1243 East 29th Street, south side of Avenue L, Block 7647, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES – None.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

ACTION OF THE BOARD – Laid over to July 17, 2007, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: 5:00 P.M.

MINUTES

*CORRECTION

This resolution adopted on January 4, 1983, under Calendar No. 513-82-BZ and printed in Volume LXVII, Bulletin Nos. 1-2, is hereby corrected to read as follows:

513-82-BZ

APPLICANT – Edward Lauria, P.E., for the City of New York Messrs. Jeffrey Tishman and Gary Spradling, lessees. SUBJECT – Application August 24, 1982 – decision of the Borough Superintendent, under Section 72-21 of the Zoning Resolution, to permit in an M1-1 district, in an existing five story building, the use of the third and fourth floors as residential units with accessory studios.

PREMISES AFFECTED – 155 Hope Street, north side, 97.10 feet west of Powers Street, Block 2375, Lot 29, Borough of Brooklyn.

COMMUNITY BOARD#18K

Appearances –

For Applicant: Edward Lauria, P.E.

For Opposition: None.

RECOMMENDATION OF THE COMMUNITY BOARD-

Favorable to the application.

ACTION OF BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chairperson Deutsch, Vice Chairman Fossella, Commissioner Agusta, Commissioner Carroll, Commissioner Wolf and Commissioner Bockman.....6

Negative.....0

THE RESOLUTION –

WHEREAS, a public hearing was held on this application on November 23, 1982, after due notice by publication in the Bulletin laid over to December 14, 1982, then to January 4, 1983; and

WHEREAS, the decision of the Borough Superintendent, dated August 6, 1982, acting on Alt. Applic. #315/1981, reads:

“1. Proposed Class “A” apartments for the subject building located in an M1-1 zone is not permitted as of right under Section 42-14 of the Zoning Resolution.”; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Commissioner Philip P. Agusta, R.A. and Commissioner Harry M. Carroll, P.E., who recommended that the application be granted; and

WHEREAS, CEQR has issued a conditional negative declaration; and

WHEREAS, this building is located on a narrow lot in a manufacturing zone; and

WHEREAS, the building is substandard and functionally obsolete as a manufacturing or commercial building and lacks an elevator; and

WHEREAS, the building is adjacent to residential development; and

WHEREAS, the building has minimal resale potential for total manufacturing or commercial use; and

WHEREAS, this application proposes to retain conforming uses on the first and second floors; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Section 72-21 of the Zoning Resolution, and that the applicant is therefore entitled to relief on the grounds of practical difficulty and/or unnecessary hardship.

Resolved, that the Board of Standards and Appeals does hereby make each and every one of the required findings and grants a variation in the application of the Zoning Resolution limited to the objection cited, and that the application be and it hereby is granted under Section 72-21 of the Zoning Resolution to permit, in an M1-1 district, in an existing five-story building, the use of the third fourth and fifth floors as residential units with accessory studios on condition that all work shall substantially conform to drawings as they apply to the objection above noted filed with this application marked, “Received October 19, 1982”-(17) sheets; “August 24, 1982”-(1) sheet and “December 9, 1982”-(4) sheets; and on further condition;

That the accessory studios shall be limited to studios in Use Group 9 and/or other permitted, non-hazardous commercial uses;

That all leases, brochures and offering plans shall contain the statement that this building is in an M1-1 district that permit uses that may not be in harmony with residential occupancy;

That these conditions shall appear on the Certificate of Occupancy;

That an approved smoke detector, hardwired with a continuously charged battery, emergency light and self-contained alarm be installed in each apartment; that a fire alarm station, connected to an alarm that can be heard throughout the building, be installed on each floor; that said alarm shall be installed with BSA approved components in accordance with NFPA No. 72 A 1979; that a controlled inspection report by a Professional Engineer or Registered Architect, giving a brief description of the installation and names of all components and that the work was performed as per above mentioned standard, be provided to the Building Department before a Certificate of Occupancy is issued; that no approval of the Fire Department of this alarm is required, but a copy of the controlled inspection report must be provided for their records; and that all laws, rules and regulations applicable be complied with, and that substantial construction be completed in accordance with Section 72-23 of the Zoning Resolution.

Adopted by the Board of Standards and Appeals, January 4, 1983.

***The resolution has been corrected to change: “Received February 19, 1982” to “October 19, 1982” and add plans dated: “August 24, 1982”-(1) sheet. Corrected in Bulletin Nos. 24-25, Vol. 92, dated June 28, 2007.**