
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:
40 Rector Street, 9th Floor, New York, N.Y. 10006.

Volume 92, No. 33

August 30, 2007

DIRECTORY

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Affecting Calendar Numbers:

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DOCKETS

New Case Filed Up to August 21, 2007

203-07-BZ

137-35 Elder Avenue, Located at the northwest corner of Main Street and Elder Avenue., Block 5140, Lot(s) 40, Borough of **Queens, Community Board: 7**. Under 72-21 – To permit a 13-story, mixed use building within C2-2/R6 ZD which requires a variance of the following section of the zoning resolution: use (22-00), community facility floor area (35-311) and off-street parking (36-21).

204-07-BZY

163-167 Washington Avenue, Approximately 80 feet from the northeast corner of Myrtle Avenue and Washington Avenue., Block 1890, Lot(s) 1,4,82, Borough of **Brooklyn, Community Board: 2**. Proposed extension of time (11-331) to complete construction of a minor development of a 15 story mixed use building under the prior R6/C1-3 zoning district .

205-07-BZ

53-20 72nd Place, West side of 72nd Place 20 feet south of the intersection of 53rd Road and 72nd Place., Block 2506, Lot(s) 52, Borough of **Queens, Community Board: 5**. (SPECIAL PERMIT) 73-30 – To install a 25-foot non-accessory radio tower, disguised as a 25-foot stealth flagpole 27-feet to top of gold ball), together with related equipment, on the rooftop of an existing building.

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

CALENDAR

SEPTEMBER 25, 2007, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 25, 2007, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

223-90-A

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Frank A. Burton, Jr., owner.

SUBJECT – Application April 3, 2007 – Amendment of a previous grant under the General City Law Section 36 to remove a Board condition requiring that no permanent Certificate of Occupancy shall be issued until a Corporation Counsel Opinion of Dedication has been obtained for Kresicher Street and to approve the enlargement of the site and building. M1-1 Zoning district.

PREMISES AFFECTED – 114 Kreisler Street, west side of Kreisler Street, 140.8' north of Androvette Street, Block 7408, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #3SI

16-92-BZ

APPLICANT – Stadtmauer Bailkin, LLP, for High Teck Park, Inc., owner.

SUBJECT – Application May 18, 2007 – Pursuant to Z.R §§72-01 & 72-22 to permit a waiver of the rules of practice and procedure, a re-opening, an amendment, and an extension of the term of the variance. The requested application would permit the legalization from the change in use from auto repair and warehouse to a charity auto donation facility (Use Group 16 automotive storage), container storage (Use Group 16), a woodworking and metal working company (Use Group 16) and a legalization of a 2,420 square foot mezzanine addition. The premises is located in a R5/C1-1 zoning district.

PREMISES AFFECTED – 115 King Street/78 Sullivan Street, lot front King Street and Sullivan Street, between Richardson and Van Brunt Street, Block 556, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEALS CALENDAR

105-06-A

APPLICANT – Rothkrug Rothkrug and Spector, for Yafa Development, LLC, owner.

SUBJECT – Application May 23, 2006 – Proposed development of a single family home which will lie partially in the bed of a mapped street (Hook Creek Boulevard contrary to General City Law Section 35. Premises is

located within an R2 zoning district.

PREMISES AFFECTED – 240-23 128th Avenue, corner of 128th Avenue and Hook Creek Boulevard, Block 12866, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

157-07-BZY

APPLICANT – Sheldon Lobel, P.C., for Blue Diamond Development, LLC, owner.

SUBJECT – Application June 11, 2007 – Extension of time (11-332) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on May 11, 2005. M1-2/R6A, M1-2/R6B and MX-8.

PREMISES AFFECTED – 55 Eckford Street, western side of Eckford Street, between Driggs Avenue and Engert Avenue, Block 2698, Lot 32, Borough of Brooklyn.

COMMUNITY BOARD #1BK

162-06-A

APPLICANT – Adam Rothkrug, Esq., for Edgewater Developers & Builders, Inc., owner.

SUBJECT – Application July 25, 2006 – Proposed construction of a single family home located partially within the bed of a mapped street (Edgewater Road) contrary to General City Law Section 35. R2 Zoning district.

PREMISES AFFECTED – 2852 Faber Terrace, intersection of Faber Terrace and Proposed Edgewater Road, Block 15684, Lot 161, Borough of Queens.

COMMUNITY BOARD #14Q

165-06-A

APPLICANT – Adam Rothkrug, Esq., for Edgewater Developers & Builders, Inc., owner.

SUBJECT – Application July 25, 2006 – Proposed construction of a single family home located partially within the bed of a mapped street (Edgewater Road) contrary to General City Law Section 35. R2 Zoning district.

PREMISES AFFECTED – 2848 Faber Terrace, intersection of Faber Terrace and Proposed Edgewater Road, Block 15684, Lot 61, Borough of Queens.

COMMUNITY BOARD #14Q

190-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Patricia & John Dalton, lessees.

SUBJECT – Application August 7, 2007 – Reconstruction and enlargement of an existing one family house not fronting on a mapped street contrary to General City Law Section 36. R4 Zoning District.

PREMISES AFFECTED – 7 Chester Walk, east side of Chester Walk, 44', south of Oceanside Avenue, Block 16350, Lot p/o 400, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

OCTOBER 2, 2007, 10:00 A.M.

190-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Patricia & John Dalton, lessees.

SUBJECT – Application August 7, 2007 – Reconstruction and enlargement of an existing one family house not fronting on a mapped street contrary to General City Law Section 36. R4 Zoning District.

PREMISES AFFECTED – 7 Chester Walk, east side of Chester Walk, 44', south of Oceanside Avenue, Block 16350, Lot p/o 400, Borough of Queens.

COMMUNITY BOARD #14Q

SEPTEMBER 25, 2007, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 25, 2007, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

65-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Ship Management Corp., owner.

SUBJECT – Application March 15, 2007 – Variance (§ 72-21) to allow a one-story (UG 6) retail building to violate use regulations (§ 22-00). R3-2 district.

PREMISES AFFECTED – 146-93 Guy R. Brewer Boulevard, northeastern intersection of 147th Avenue and Guy R. Brewer Boulevard, Block 13354, Lot 12, Borough of Queens.

COMMUNITY BOARD #13Q

124-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Gino Masci, owner.

SUBJECT – Application May 16, 2007 – Under (§ 72-21) to allow UG 6 (eating and drinking) on the first floor and cellar of an existing seven-story building, contrary to use regulations (§ 42-14(d)(2)(b)). M1-5B district.

PREMISES AFFECTED – 521 Broome Street, between Broome and Watts Streets, midblock between Thompson Street and Sixth Avenue, Block 476, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #2M

Jeff Mulligan, Executive Director

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 2, 2007, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

919-57-BZ

APPLICANT – Cullen and Dykman LLP by Gary Goldman, owner; Stanley Halpern, lessee.

SUBJECT – Application August 20, 2007 – Extension of Term, ZR11-411 of a previously granted variance for the continued operation of a UG6 take out restaurant in an R3-2 zoning district which expired on March 25, 2003.

PREMISES AFFECTED – 4912 Avenue K, south side of Avenue K between East 49th Street and Utica Avenue, Block 7829, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #18BK

382-80-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Full Gospel New York Church, owners.

SUBJECT – Application June 29, 2007 – Extension of Term of a previously granted variance, which expired on July 1, 2005, to allow the operation of a theater (Playhouse 91) on the mezzanine and second floors located in an R8b zoning district.

PREMISES AFFECTED – 316 East 91st Street, south side of East 91st Street, 250' east side of Second Avenue, Block 1553, Lot 41, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEALS CALENDAR

2-07-BZ thru 5-07-A

APPLICANT – Sheldon Lobel, P.C., for Ron Karo, owner.

SUBJECT – Application January 8, 2007 – To allow construction of four-3story 2 family located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED– 3212, 3214, 3216, 3218, Tiemann Avenue, northeast corner of Tiemann Avenue and unnamed Street, Block 4752, Lots 128, 129, 132, 133, Borough of Bronx.

COMMUNITY BOARD #12BX

39-07-BZ thru 40-07-A

APPLICANT – Sheldon Lobel, P.C., for Blue Granite, owner.

SUBJECT – Application February 2, 2007 – Proposed

CALENDAR

construction of a 3 story, 3 family located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED – 3248, 3250, Givan Avenue, unnamed street between Wickham and Givan Avenue,, Block 4755, Lots 65 & 66, Borough of Bronx.

COMMUNITY BOARD #12BX

156-07-A

APPLICANT – Jorge F. Canepa, for Victor Battaglia, owner.

SUBJECT – Application June 11, 2007 – Proposed construction a swimming pool and equipment room, located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED – 60 Chipperfield Court, 433.95' south of the corner between Chipperfield Court and Ocean Terrace, Block 687, Lot 337, Borough of Staten Island.

COMMUNITY BOARD #2SI

OCTOBER 2, 2007, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, October 2, 2007, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

78-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Phyllis Balsam, owner; Shape-N-Up Fitness Club, LLC; lessee.

SUBJECT – Application April 12, 2007 – Special Permit (§73-36) to allow the operation of a PCE on the first floor of a two-story commercial building. The proposal is contrary to section 42-00. M1-1 district.

PREMISES AFFECTED – 2515 McDonald Avenue, east side of McDonald Avenue, between Avenues W and X, Block 7173, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, AUGUST 21, 2007
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

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
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 – Application granted on
condition.

THE VOTE TO GRANT –

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

Negative:.....0

Absent: Commissioner Ottley-Brown.....1

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an
amendment to legalize a change in use from a greenhouse with
an accessory retail store (Use Group 6) to an eating and
drinking establishment (Use Group 6); and

WHEREAS, the decision of the Staten Island
Commissioner dated February 2, 2007, acting on DOB
Application No. 500806611, reads:

“22-00 ZR: Change of existing legal use
(greenhouse, sales and display, retail store and
freezer and storage) in use group 6 to eating and
drinking establishment, pizzeria, and delicatessen
restaurant with seating (also use group 6) located
within an R3-1 zoning district which is contrary to
BSA Resolution Cal. No. 558-71-BZ and section 22-
00 of the NYC Zoning Resolution. Therefore, refer
to the board of standards and appeals for review.

“23-00, 25-00, 25-70 ZR: There are no bulk, parking
and loading regulations for a retail establishment (use
group 6) within an R3-1 district. Refer to the Board
of Standards and Appeals for review”; and

WHEREAS, a public hearing was held on this application
on June 19, 2007, after due notice by publication in *The City
Record*, with a continued hearing on August 7, 2007, and then
to decision on August 21, 2007; and

WHEREAS, the premises had a site and neighborhood

visit by Chair Srinivasan; and

WHEREAS, Community Board 2, Staten Island,
recommended approval of this application; and

WHEREAS, the site is located on the east side of
Richmond Avenue, between Amsterdam Place and Bleecker
Place, within an R3-1 zoning district; and

WHEREAS, the subject site is occupied by one-story
building with a floor area of 5,815 sq. ft. and 19 accessory
parking spaces; and

WHEREAS, the prior variance was granted on November
16, 1971, and permitted, within an R3-2 zoning district, the
construction and maintenance of an existing nursery and
greenhouse, pursuant to ZR § 72-21; and

WHEREAS, on March 25, 2005, the grant was amended
by letter to permit interior renovations; and

WHEREAS, an application was filed on January 27,
2006 on behalf of the previous owner of the premises for a
reopening and an amendment to legalize a change in use from a
greenhouse with an accessory retail store (Use Group 6) to an
eating and drinking establishment (Use Group 6); and

WHEREAS, the former owner’s business at the premises
failed and the application was not prosecuted; and

WHEREAS, on October 24, 2006, the Board dismissed
the application for lack of prosecution; and

WHEREAS, the premises has been purchased by a new
owner who wishes to legalize its use as an eating and drinking
establishment; and

WHEREAS, the applicant presented evidence that the
surrounding area is characterized by commercial
establishments, many of which were authorized by grants from
the Board; and

WHEREAS, the hours of operation of the eating and
drinking establishment will be Monday through Saturday 8
a.m. to 8 p.m. and Sunday 8 a.m. to 4 p.m., with a delivery area
within ten (10) blocks of the premises; and

WHEREAS, the operator anticipates that approximately
120 patrons will visit the eating and drinking establishment
each day; and

WHEREAS, in response to concerns expressed by the
Board at hearing, the applicant presented a traffic report
indicating that the 19 existing parking spaces are adequate for
anticipated use, and that no significant traffic impacts would be
anticipated; 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,
with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and
Appeals reopens and amends the resolution, said resolution
having been adopted on November 16, 1971, so that as
amended this portion of the resolution shall read: “to permit
the conversion of the existing building from a greenhouse with
an accessory retail store (Use Group 6) to an eating and

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drinking establishment (Use Group 6) *on condition* that all work and site conditions shall comply with drawings marked "Received May 21, 2007"-(3) sheets; and *on further condition:*

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

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

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

(DOB Application No. 500806611)

Adopted by the Board of Standards and Appeals, August 21, 2007.

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

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Absent: Commissioner Ottley-Brown.....1

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 physical culture establishment (PCE), which expired on July 17, 2006; and

WHEREAS, a public hearing was held on this application on April 10, 2007 after due notice by publication in *The City Record*, with continued hearings on June 19, 2007, July 24, 2007, and then to decision on August 21, 2007; and

WHEREAS, Community Board 3, Queens, recommends disapproval of the application, citing concerns about non-compliance with required site conditions including the absence of (1) an overhead canopy, (2) lighting at the courtyard entrance for the proposed lift, (3) downward lighting along the façade, (4) six trees along 108th Street, (5) three trees along 37th Avenue, and (6) sufficient site maintenance; and

WHEREAS, the subject premises is located on the southwest corner of 108th Street and 37th Avenue; and

WHEREAS, the site is located within a C1-4 (R6B) zoning district and is occupied by a two-story mixed-use manufacturing/office building; and

WHEREAS, the PCE occupies 8,900 sq ft. on the second floor; and

WHEREAS, the PCE is operated as Squash Total Fitness; and

WHEREAS, on July 17, 2001, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to permit the legalization of an existing PCE on the first floor and a portion of the second floor of an existing two-story mixed-use manufacturing/office building for a term of five years; and

WHEREAS, on May 11, 2004, the grant was amended to permit the relocation of the PCE onto the entire second floor; and

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

WHEREAS, additionally, the applicant has not obtained a certificate of occupancy and requires time to obtain an amended certificate of occupancy to reflect the current uses; and

WHEREAS, the applicant represents that a certificate of occupancy has not been obtained due to ongoing modernization of the building unrelated to the PCE use; and

WHEREAS, as to the Community Board's concerns, the applicant has agreed (1) to install a canopy, (2) to install the required lighting, (3) to plant the required trees, and (4) to maintain the site free of debris and graffiti; and

WHEREAS, specifically, during the hearing process, the applicant installed the required lighting and submitted photographs reflecting this condition; and

WHEREAS, the applicant represents that the site landscape consultant has requested permission from the Parks Department to proceed with the tree planting and that the Parks Department has stated that it cannot be performed until October 15, 2007; and

WHEREAS, as to the canopy, the applicant represents that the installation of the canopy will be performed subsequent to the granting of the subject extension of term; and

WHEREAS, additionally, the Board notes that the applicant must install a wheelchair lift to provide access to the PCE; and

WHEREAS, the applicant represents that DOB will not issue permits for additional construction, including the installation of the lift and canopy, before the extension of term is granted; 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 July 17, 2001, so that as amended this portion of the resolution shall read: "to grant an

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extension of the variance for a term of five years from the expiration of the last grant to expire on July 17, 2011; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 28, 2007" –(5) sheets; and; and *on further condition*:

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT this grant shall expire on July 17, 2011;

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

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

THAT street trees shall be planted and maintained as per the BSA approved plans;

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

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

THAT a wheelchair lift, as noted on the BSA-approved plans, shall be installed prior to the issuance of a Certificate of Occupancy;

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

THAT all conditions from this and prior resolutions shall be complied with and a Certificate of Occupancy shall be obtained by May 21, 2008;

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

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

(DOB Application No. 410008636)

Adopted by the Board of Standards and Appeals, August 21, 2007.

20-02-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 303 Park Avenue South Leasehold Co., LLC, owner; New York Sports Club, lessee.

SUBJECT – Application September 18, 2006 – Extension of Term/Amendment – To allow the operation of a Physical Culture Establishment/Health Club and change in hour of operation, on portions of the cellar, first floor and second floor of the existing five story mixed use loft building.

PREMISES AFFECTED – 303 Park Avenue South, northeast corner of Park Avenue South and East 23rd Street, Block 879, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on

condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown 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 special permit for a physical culture establishment (PCE), which expired on February 27, 2006; and

WHEREAS, a public hearing was held on this application on January 23, 2007, after due notice by publication in *The City Record*, with continued hearings on February 13, 2007, March 6, 2007, April 17, 2007, May 22, 2007, June 12, 2007, and July 24, 2007, and then to decision on August 21, 2007; and

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

WHEREAS, the subject premises is located on the northeast corner of Park Avenue and East 23rd Street; and

WHEREAS, the site is located within a C6-4A zoning district and is occupied by a five-story mixed-use commercial/residential building; and

WHEREAS, the PCE has a total floor space of 24,496 sq. ft., with 3,520 sq. ft. of floor space in the cellar, 5,900 sq. ft. of floor area on the first floor, and 15,076 sq. ft. of floor area on the second floor; and

WHEREAS, the PCE is operated as New York Sports Club; and

WHEREAS, in March 1997, under BSA Cal. No. 160-95-BZ, the Board granted a special permit, pursuant to ZR § 73-36, to permit the legalization of an existing PCE in the subject building for a term of ten years; and

WHEREAS, on June 18, 2002, under the subject calendar number, the Board granted a second special permit, to permit the expansion of the PCE onto the second floor and an increase in the total floor space from 15,368 sq. ft. to 24,496 sq. ft.; and

WHEREAS, this application seeks to extend the term of the special permit for an additional ten years; and

WHEREAS, additionally, the applicant initially sought the following change in hours of operation: Monday through Friday, 12:00 a.m. to 12:00 a.m.; Saturday, 12:00 a.m. to 9:00 p.m.; and Sunday, 8:00 a.m. to 12:00 a.m.; and

WHEREAS, the Boar notes that at the time of the application, the PCE was operating on a 24-hour basis, contrary to the prior grant; and

WHEREAS, the hours of operation set forth in the 2002 grant were Monday through Thursday, 6:00 a.m. to 11:00 p.m.; Friday, 6:00 a.m. to 11:00 p.m.; and Saturday and Sunday, 9:00 a.m. to 7:00 p.m.; and

WHEREAS, the building's residential occupants raised a number of concerns about the operation of the site; and

WHEREAS, specifically, they stated that: (1) the expanded hours of operation are not compatible with the other

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uses in the building, (2) there is excess noise emanating from the PCE's roof mechanicals, (3) microphones and music are too loud, and (4) the use of punching bags and treadmills creates vibrations felt within the residential units; and

WHEREAS, as to the expanded hours, the Board agrees that they are not compatible with other uses in the building, specifically, the residential use immediately above the PCE, and directed the applicant to restrict the hours of operation to what was previously approved; and

WHEREAS, as to the mechanicals, the applicant replaced the drive shaft and some bearings in the cooling tower on the roof, which appears to have eliminated certain noises; and

WHEREAS, the applicant notes that there are two exhaust systems on the roof, which are not associated with the PCE, which continue to produce vibration and noise; and

WHEREAS, the applicant has communicated with the building manager to address these concerns, which are not under the PCE's control; and

WHEREAS, as to the use of microphones and amplified music, the applicant has installed audio limiters in both its exercise studios to reduce the maximum permitted volume and has stopped using the sound system in the main areas; and

WHEREAS, as to the vibrations from PCE equipment, the applicant has (1) removed all high impact treadmills from the second floor; (2) ordered new low impact treadmills for the second floor; and (3) removed the hanging punching bags; and

WHEREAS, at the Board's request, the applicant submitted an acoustical analysis and information detailing the operation of the low impact treadmills, which reflect that the noted improvements should effectively limit the sound and vibrations from the PCE; and

WHEREAS, the Board notes that the residential occupants of the building provided testimony stating that the noted sound attenuation measures appear to be effective; and

WHEREAS, based upon its review of the record, the Board finds that a limited 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 June 18, 2002, so that as amended this portion of the resolution shall read: "to grant an extension of the special permit for a term of one year from the date of this grant, to expire on August 21, 2008; *on condition* that any and all work shall substantially conform to drawings filed with this application marked "Received November 27, 2006" -(2) sheets and "August 15, 2007"-(2) sheets; and; and *on further condition*:

THAT this grant shall expire on August 21, 2008;

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT the hours of operation shall be limited to: Monday through Thursday, 6:00 a.m. to 11:00 p.m.; Friday, 6:00 a.m. to 11:00 p.m.; and Saturday and Sunday, 9:00 a.m. to 7:00 p.m.;

THAT all sound attenuation measures shall be installed and maintained, per the BSA-approved plans;

THAT an audio limiter shall be installed and maintained

on all microphones and sound systems;

THAT no high impact treadmills are to be located on the second floor;

THAT the number of low impact treadmills on the second floor shall be limited to six;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 104475729)

Adopted by the Board of Standards and Appeals, August 21, 2007.

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

APPEARANCES –

For Applicant: Ron Mandel.

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 September 11, 2007, at 10 A.M., for decision, hearing closed.

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

APPEARANCES –

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For Applicant: Ron Mandel.

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 September 11, 2007, at 10 A.M., for decision, hearing closed.

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

APPEARANCES –

For Applicant: Ron Mandel.

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 September 11, 2007, at 10 A.M., for decision, hearing closed.

844-86-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, for Fred Lynn Associates, owner; Pyramida Billiards, lessee.

SUBJECT – Application February 12, 2007 – Extension of Term of a previously granted Special Permit (§73-50) for the enlargement of a one (1) story building, in a C8-2 zoning district, that encroaches into the open area required along a district boundary which expired on April 28, 1997; an Amendment to legalize the change in use from an auto repair shop (UG16) and custom clothing manufacturer (UG11) to a billiard parlor (UG12) and eating and drinking establishment (UG6) and to permit the addition of a 979. sq. ft. mezzanine in the UG6 portion of the building; an Extension of Time to obtain a Certificate of Occupancy which expired on May 4, 1999 and a Waiver of Rules of Practice & Procedure.

PREMISES AFFECTED – 1828/1836 McDonald Avenue, west side of McDonald Avenue, between Avenue P and Quentin Road, Block 6632, Lots 17 & 20, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to September 25, 2007, at 10 A.M., for continued hearing.

139-92-BZ

APPLICANT – Samuel H. Valencia, for Valencia Enterprises, owner.

SUBJECT – Application March 9, 2007 – Extension of Term for a UG12 eating and drinking establishment with dancing located on the first floor of a three story, mixed use building with residences on the upper floors in a C2-2/R-6 zoning district.

PREMISES AFFECTED – 52-15 Roosevelt Avenue, north side 125.53' east of 52nd Street, Block 1315, Lot 76, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to September 18, 2007, at 10 A.M., for adjourned hearing.

214-96-BZ

APPLICANT – Rampulla Associates Architects, for Colonial Funeral Home, owner.

SUBJECT – Application July 2, 2007 – Extension of Term of a previously granted Variance (§72-21) which expires on April 7, 2008, to permit in an R3-1 zoning district, a UG7 (Colonial Funeral Home) and the existing accessory parking on the adjacent lot (Lot 30) which houses a conforming UG1 single family home.

PREMISES AFFECTED – 2819 Hylan Boulevard, North side Hylan Boulevard east corner of Hylan Boulevard and Tysens Lane. Block 4256, Lot 34, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Philip P. Rampulla.

ACTION OF THE BOARD – Laid over to October 2, 2007, at 10 A.M., for continued hearing.

7-00-BZ, Vol. III

APPLICANT – Friedman & Gotbaum, LLP, for Trustees of the NYC Rescue Mission, owners.

SUBJECT – Application July 26, 2007 – Extension of Time to Complete Construction for a Variance previously granted on May 30, 2000 to permit within an M1-5 zoning district an enlargement to a UG3, non-profit homeless shelter for men, (New York City Rescue Mission) which expired on February 10, 2005.

PREMISES AFFECTED – 90 Lafayette Street, northwest corner of Lafayette and White streets, Block 195, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Lori Cuisinier.

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 September 11, 2007, at 10 A.M., for decision, hearing closed.

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APPEALS CALENDAR

170-06-A & 171-06-A

APPLICANT – Adam Rothkrug, Esq., for Ely Building LLC, owner.

SUBJECT – Application August 11, 2006 – Proposed construction of two, three family homes located within the bed of a mapped but unbuilt street (Needham Avenue) contrary to Section 35 of General City Law. R5 Zoning District.

PREMISES AFFECTED – 3546 and 3548 Ely Avenue, north of Boston Road, Block 4892, Lots 24, 25, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Adam Rothkrug.

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 July 13, 2006, acting on Department of Buildings Application Nos. 200941614 & 200981429, reads in pertinent part:

“Objection #1 –Comply with General City Law Section 35”; and

WHEREAS, this application requests permission to build two, three-family homes within the bed of a mapped but unbuilt street (Needham Avenue); and

WHEREAS, a public hearing was held on this application on June 5, 2007, after due notice by publication in the *City Record*, with continued hearings on July 10, 2007 and August 7, 2007, and then to decision on August 21, 2007; and

WHEREAS, by letter dated November 16, 2006, the Fire Department states that it has reviewed the above application and that it has no objections as long as the 250’-0” maximum operating hydrant distance can be confirmed on drawings; and

WHEREAS, on April 4, 2007, the applicant submitted a site plan reflecting the location of an existing hydrant located within 250’-0” of the subject premises; and

WHEREAS, by letter dated January 10, 2007, the Department of Transportation (DOT) states that it has reviewed the application and advises the Board that the proposed site plan does not reflect any provisions for a cul de sac/turnaround at the dead end of Needham Avenue; and

WHEREAS, DOT states that such a turnaround, which would be half the width of Ely Avenue plus five feet for the entire length of the unopened portion of Ely Avenue (approximately 260 feet), should be constructed at the applicant’s expense; and

WHEREAS, the applicant revised the site plan to include

a Y-shaped turnaround; and

WHEREAS, the applicant has no objection to paving half of the width of Ely Avenue plus five feet, provided that the additional paving does not require the cutting of additional trees; and

WHEREAS, on June 28, 2007, in response to DOT, the applicant submitted a revised site plan reflecting the following: (1) the width of the proposed paved area is 35 feet (half the width of the mapped street plus five feet), (2) removal of additional trees, (3) a Y-shaped turnaround, and (4) a note stating that new sidewalks will match existing sidewalks; 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 July 11, 2007, DOT states that it has reviewed the applicant’s revised submission and has no further comments; and

WHEREAS, by letter dated September 18, 2006, the Department of Environmental Protection (DEP) states that it reviewed the above application and advises the Board that there is an adopted Drainage Plan #42-N (30) P(23), which calls for a future 18” combined sewer in the bed of Needham Avenue between Ely Avenue and Grace Avenue; and

WHEREAS, accordingly, DEP requests that the applicant provide a 31’-0” corridor in the bed of Needham Avenue between Ely Avenue and Grace Avenue to accommodate the installation, maintenance, and/or reconstruction of this sewer; and

WHEREAS, by letter dated October 11, 2006, the applicant states that DEP’s request is not warranted; and

WHEREAS, specifically, the applicant states that the subject premises includes half of the bed of Needham Avenue, a width of 40 feet; and

WHEREAS, the applicant represents that DEP’s request that the entire 31’-0” easement be provided on the subject premises would prohibit the proposed construction by encumbering approximately 80 percent of the land in the bed of the mapped street; and

WHEREAS, further, as to the built conditions on the other half of Needham Avenue (an additional 40 feet in width), it remains vacant and available for the proposed sewer line while the subject side of the bed of the street is already occupied by two homes, facing Grace Avenue, which would encroach upon the proposed easement; and

WHEREAS, by letter dated October 25, 2006, DEP reiterated its request that the development be revised so as to provide the 31’-0” sewer corridor on the subject site or to amend the latest drainage plan; and

WHEREAS, by letter dated November 1, 2006, the applicant again states that the DEP request is unwarranted given the availability of vacant land on the other half of Needham Avenue, which could provide the required access, and the history of development in the bed of Needham Avenue; and

WHEREAS, further, the applicant notes that there is a lack of undeveloped property in the area, which suggests that there will not be much future development and the mapped street will not be needed or constructed in the further; and

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WHEREAS, the applicant has offered to provide a 10'-0" easement within the subject portion of Needham Avenue; and

WHEREAS, by letter dated January 24, 2007, DEP notes that in order to carry out its mandate, it requires the applicant to file an amended drainage plan or to revise the layout of the proposed development to provide the requested sewer corridor; and

WHEREAS, by letter dated April 4, 2007, the applicant requests that, in light of the noted surrounding conditions, the Board permit the applicant to provide a 10'-0" sewer corridor rather than the 30'-0" sewer corridor DEP requests; and

WHEREAS, by letter dated June 28, 2007, the applicant states that the City owns the vacant southwesterly portions of Ely Avenue and a portion of Needham Avenue, including the land in the bed of Ely Avenue and Needham Avenue, which is part of a large City-owned site; and

WHEREAS, the applicant contends that it would be viable for DEP to use this vacant portion of the City's property for the proposed sewer construction; and

WHEREAS, the Board agrees with the applicant that the undeveloped side of Needham Avenue could provide the access DEP requests and that the proposal will not interfere with DEP's plans; and

WHEREAS, additionally, the Board notes that, given the built conditions and surrounding development, it is unlikely that the subject portion of Needham Avenue will be built; and

WHEREAS, based upon its review of the record, the Board finds that the proposal is appropriate with certain conditions as set forth below; and

WHEREAS, the Board notes that, although it has not required DEP's request for a 31'-0" sewer corridor, this decision does not supersede any other DEP or DOB requirements relevant to this proposal.

Therefore it is Resolved that the decision of the Bronx Borough Commissioner, dated July 13, 2006, acting on Department of Buildings Application Nos. 200941614 & 200981429, 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 29, 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;

THAT the lot subdivision is to be approved by DOB; and

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

Adopted by the Board of Standards and Appeals,

August 21, 2007.

219-06-A thru 225-06-A

APPLICANT – Rothkrug, Rothkrug and Spector, for J. Berardi & C. Saffren, owners.

SUBJECT – Application August 30, 2006 – Application to permit the construction of seven two story one family dwellings within the bed of a mapped street (128th Drive) contrary to Section 35 of the General City Law and not fronting on a legally mapped street contrary to Article 3, Section 36 of the General City Law. Premises is located within the R-2 Zoning District.

PREMISES AFFECTED – 241-10/16/22/28/15/21/25 128th Drive, Block 12886, Lots 1003, 1005, 1007, 1009, 1004, 1006, 1008, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to September 11, 2007, at 10 A.M., for continued hearing.

320-06-A

APPLICANT – Rothkrug, Rothkrug and Spector, for Furman LLC, owner.

SUBJECT – Application December 11, 2006 – An appeal challenging DOB's interpretation of their DOB Memo 9/21/86 in which compliance with the special provisions of §23-49 (a) & (c) are applicable to the current design of the proposal when the party walls are utilized or shared for 50% or more of the depth of the building. R5 zoning district.

PREMISES AFFECTED – 4368 Furman Avenue, between East 236th and East 237th, Block 5047, Lot 12, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Adam W. Rothkrug.

For Opposition: Mark Davis, Department of Buildings.

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 September 25, 2007, at 10 A.M., for decision, hearing closed.

323-06-A

APPLICANT – Vito J. Fossella, P.A., for Michael Sidnam, owner.

SUBJECT – Application December 14, 2006 – Proposed enlargement of an existing one family dwelling located within the bed of mapped street (North Avenue) which is contrary to Section 35 of the General City Law. R3X Zoning.

PREMISES AFFECTED – 389 College Avenue, Northside of College Avenue; 140.08' east of the corner formed by the

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intersection of College Avenue and Lockwood Place, running thence east 111.38', thence north 168.99', thence s/w 82.20', thence west 64.92', thence south 89.27'. Block 391, Lot 93, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Sameh M. El-Meniawy.

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 September 18, 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 and Christopher Papa.

For Opposition: Janina Gaylard, Department of Buildings.

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 September 11, 2007, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director

Adjourned: 11:30 A.M.

REGULAR MEETING

TUESDAY AFTERNOON, AUGUST 30, 2007

1:30 P.M.

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

ZONING CALENDAR

108-06-BZ

APPLICANT– Eric Palatnik, P.C., for S & L-G Realty Corp., owner.

SUBJECT – Application May 30, 2006 – Zoning variance under §72-21 to allow a proposed 15-story residential building (U.G. 2) containing twenty-six (26) dwelling units and ground floor retail use (U.G. 6) to locate in an M1-6 district; contrary to §42-00 (use regulations).

PREMISES AFFECTED – 143 West 30th Street, between 6th and 7th Avenues, Block 806, Lot 4, Borough of Manhattan

COMMUNITY BOARD #5M

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, decision of the Manhattan Borough Commissioner, dated May 19, 2006, acting on Department of Buildings Application No. 104407553, reads:

“ZR-42-00: Proposed residential use (use group 2) within M1-6 district is not permitted”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-6 zoning district, a proposed 15-story, 154’-0” tall, residential (UG 2) building with 26 dwelling units containing 22,075.35 sq. ft. of floor area (8.94 FAR), with ground floor retail (UG 6) use containing 1,841.08 sq. ft. of floor area (0.75 FAR), and a total floor area of 23,916.43 sq. ft. and total FAR of 9.69, which is contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on April 10, 2007, after due notice by publication in the *City Record*, with continued hearings on June 12, 2007 and July 17, 2007, and then to decision on August 21, 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 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject premises is located on the south side of West 30th Street between Sixth and Seventh avenues; and

WHEREAS, the site is narrow, with 25 feet of frontage on West 30th Street, is 98’-0” deep, and has a total lot area of 2,469 sq. ft.; and

WHEREAS, the site is currently occupied by a 70-year-old, two-story office/store (UG 6) building, with a floor area of 2,469 sq. ft. and FAR of 1.89 (10.0 FAR is allowed for a permitted use), which would be demolished to permit the proposed development; and

WHEREAS, as noted, the applicant proposes to demolish the existing 2-story building and construct 15-story residential (UG 2) building with 26 dwelling units (8.94 FAR), with ground floor retail (UG 6) use (0.75 FAR), and a total FAR of 9.69; and

WHEREAS, the second through fifteenth floors will be

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occupied with residential units; and

WHEREAS, the applicant initially proposed a slightly larger building of 10.0 FAR with a 26'-0" rear yard; and

WHEREAS, in response to concerns expressed by the Board at hearing, the applicant increased the rear yard to 30'-0" in order to comply with residential regulations and to safeguard light and air for adjacent buildings; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable zoning district regulations: (1) the site is narrow and does not permit floor plates appropriate to permitted office or manufacturing uses; (2) a police station is located at 134 West 30th Street and the parking of police vehicles along the block inhibits manufacturing and commercial uses that rely on vehicular access for the movement of goods; (3) the site has a unique history of development; and (4) the existing structure is obsolete; and

WHEREAS, the applicant represents that the condition of a narrow lot is unique, and that while 14 of 64 lots in the surrounding area are as narrow, it is not required that the premises be the only such narrow lot in the area; and

WHEREAS, the applicant states that some of the other similarly narrow lots are grouped together so as to be suitable for zoning lot mergers to create lots for larger, more efficient development sites; and

WHEREAS, additionally, other narrow lots in the area have avenue frontage making them more suitable for conforming retail development and therefore less burdened than the premises; and

WHEREAS, at hearing the applicant stated that the owner of the premises had approached the owner of the adjacent lot regarding its purchase so that a lot more suitable for as-of-right could be created, but the owner of the adjacent lot was unwilling to sell; and

WHEREAS, the site is currently built to less than 20% of its allowable bulk and occupied by a 70-year-old building; and

WHEREAS, the applicant argues that the presence of the NYPD station at 134 West 30th Street makes the site desirable for residential development, but the parking generated by the police station reduces the vehicular access that would be required for commercial or manufacturing uses; and

WHEREAS, the Board notes that the lot is not unique in being burdened by the amount of police parking, but that all lots on the block are similarly affected; and

WHEREAS, the applicant did not present evidence of the unique development history of the premises in support of its assertion; and

WHEREAS, nevertheless, the Board finds that the small lot size, which is insufficient to provide floor plates of adequate size for commercial or manufacturing uses, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant provided financial analyses for (1) the existing commercial building, (2) an as-of-right office building, (3) an as-of-right hotel building, (4) a smaller

residential building with a rear yard of 30'-0" and FAR of 9.2, and (5) the original proposed building with rear yard of 26'-0" above the first story and FAR of 9.69; and

WHEREAS, the applicant's financial analyses showed negative rates of return for the existing building, the as-of-right office building, and the as-of-right hotel, a minimal rate of return for the smaller residential building, and an acceptable rate of return for the proposed residential building with first-floor commercial use;

WHEREAS, specifically with respect to the as-of-right hotel, the applicant claims that while typical hotel floor plates could be developed, the lot is not large enough to accommodate customary hotel amenities such as a restaurant or ballroom, and effort to market the premises for hotel use were unsuccessful; and

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

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

WHEREAS, the Board, at hearing, raised concerns about the compatibility of the residential use with conforming uses, specifically manufacturing uses in the vicinity of the premises, the impacts of the building's height, and traffic impacts; and

WHEREAS, the West 30th Street block where the premises is located is characterized generally by a mix of commercial, manufacturing and residential uses; and

WHEREAS, in response to the Board's concern regarding compatibility of the proposed residential use with conforming and surrounding land uses, the applicant surveyed land uses on the block and in the surrounding neighborhood and determined that the uses are 72% commercial, 7% residential, 9% manufacturing, 3% community facility, 4% wholesale, and 5% vacant/unknown; and

WHEREAS, based on the land use survey, the applicant determined that the proposed building would fit into the mixed-use character of the neighborhood and that sufficient convenience retail uses are present in the neighborhood to support additional residential development; and

WHEREAS, although zoned M1-6, the primarily commercial nature of actual land uses in the area is compatible with residential use, as in many high-density commercial districts, including the C6-4X district mapped along Sixth Avenue to the west of the site; and

WHEREAS, further, the Board notes that the City Planning Commission in 2003 approved the conversion of 130 West 30th Street, which is located across the street from the subject site, to residential use with 45 units, and determined, together with the City Council, that the introduction of these residential units would not alter the essential character of the

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neighborhood; and

WHEREAS, in addition to the residential and community facility uses noted above, there are many residential buildings in the manufacturing district to the south of the premises; and

WHEREAS, applicant's analysis showed that the proposed residential use would result in less traffic during peak hours than would the hotel alternative, and therefore would result in less impact on access to conforming uses on the block; and

WHEREAS, as to bulk and massing, the applicant represents that there are a number of buildings of comparable height in the immediate vicinity of the premises, including buildings of 12 and 14 stories immediately to the west on West 30th Street, a building of 16 stories to the rear of the premises on West 31st Street, and a building of 23 stories adjacent to the NYPD station across West 30th Street from the premises; and

WHEREAS, the applicant notes that the bulk of the proposed building is consistent with as-of-right development in the manufacturing district; and

WHEREAS, the applicant asserts that although the proposed residential building would not provide any accessory parking, the area is well-served by mass transit; and

WHEREAS, based upon the above, the Board finds that the proposed 26-unit residential building will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor be detrimental to the public welfare; and

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

WHEREAS, accordingly, the Board finds that the current proposal, with the rear yard increased from 26'-0" to 30'-0", is the minimum necessary to afford the owner relief; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA093M, dated December 6, 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, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the applicant: December, 2006

Environmental Assessment Statement (EAS) and November, 2006 Phase I Environmental Site Assessment report (Phase I); and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials impacts; and

WHEREAS, a DEP Restrictive Declaration (the "DEP RD") was executed on July 31, 2007 and submitted for proof of recording on August 2, 2007 and requires that hazardous materials concerns be addressed; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the DEP RD and the applicant's agreement to the conditions noted below; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within An M1-6 zoning district, a proposed 15-story residential building with 26 units, and commercial use on the first floor, which is contrary to ZR § 42-00, *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 July 2, 2007"--one (1) sheet and "Received August 7, 2007"--six (6) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum of 15 stories, 26 dwelling units, a total height of 154 feet, a residential floor area of 22,075.35 sq. ft. (8.94 FAR), a commercial floor area of 1841.08 sq. ft. (0.75 FAR), and a total floor area of 23,916.43 sq. ft (9.69 FAR), all as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, August 21, 2007.

116-06-BZ

APPLICANT – Harold Weinberg, P.E., for David

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Nikchemny, owner.

SUBJECT – Application June 8, 2006 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary lot coverage and floor area (§23-141); side yards (§23-461) and rear yard (§34-47) in an R3-1 zoning district.

PREMISES AFFECTED – 172 Norfolk Street, west side, 200’ north of Oriental Boulevard and Shore Boulevards, Block 8756, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Frank Sellitto III.

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 6, 2006, acting on Department of Buildings Application No. 302164690, reads in pertinent part:

“The proposed enlargement of the one family residence in an R3-1 zoning district:

1. Creates a new non-compliance with respect to lot coverage and is contrary to section 23-141 of the Zoning Resolution (ZR).
2. Creates a new non-compliance with respect to floor area ratio and open space and is contrary to section 23-141 ZR.
3. Creates a new non-compliance with respect to rear yard and is contrary to section 23-47 ZR.
4. Extends the degree of non-compliance with respect to side yards and is contrary to sections 23-461 and 54-31”; and

WHEREAS, this is an application under ZR § 73-622 to permit, in an R3-1 zoning district, the proposed enlargement of a single-family residence, which does not comply with the zoning requirements for lot coverage, floor area, side yards and rear yard, contrary to ZR §§ 23-141, 23-47, 23-461, and 54-31; and

WHEREAS, a public hearing was held on this application on July 10, 2007, after due notice by publication in *The City Record*, with a continued hearing on August 7, 2007, and then to decision on August 21, 2007; and

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

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

WHEREAS, the subject site is located on the west side of Norfolk Street, between Oriental and Shore Boulevards; and

WHEREAS, the subject site has a total lot area of 2,840 sq. ft., and is occupied by a 913 sq. ft. (0.32 FAR) single-family home, with side yards of 4’-1” and 1’-7” (side

yards with a minimum width of 8’-0” and 5’-0” are required), and a rear yard of 25’-10-7/8” (30’-0” is required); and

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

WHEREAS, the applicant seeks an increase in the floor area from 913 sq. ft. (0.32 FAR) to 2,668 sq. ft. (0.94 FAR); the maximum floor area permitted is 1,704 sq. ft. (0.6 FAR); and

WHEREAS, the proposed enlargement will increase lot coverage from 32.2% to 51.5% (a maximum of 35% is permitted); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yards of 4’-1” and 1’-7” (side yards with a minimum width of 8’-0” and 5’-0” are required); and

WHEREAS, the proposed enlargement calls for a rear yard of 20’-0” (30’-0” is required); and

WHEREAS, the Board notes that the enlargement will consist of the addition of a second story over the first story and an enlargement into the rear yard; and

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

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for the City Environmental Quality Review and makes the required findings under ZR § 73-622 to permit, in an R3-2 zoning district, the proposed enlargement of a two-family dwelling, which does not comply with the zoning requirements for floor area, FAR, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received July 26, 2007”-(7) sheets and “August 9, 2007”-(4) sheets; and *on further condition*:

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the following shall be the bulk parameters of the building: a total floor area of 2,668 sq. ft., a total FAR of 0.94,

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lot coverage of 51.5%, side yards of 4'-1" and 1'-7", and rear yard of 20'-0", 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 objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the driveway ramp and clearance for vehicles shall be 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 the plan(s)/configuration(s) not related to the relief granted. (DOB Application No. 302164690)

Adopted by the Board of Standards and Appeals, August 21, 2007.

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

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 Manhattan Borough Commissioner, dated December 12, 2006, acting on Department of Buildings Application No. 103946937, reads in pertinent part:

“Proposed Physical Culture Establishment is not permitted as of right in C5-2 zoning district. This is contrary to section 32-10 ZR”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-2 zoning district, the legalization of a physical culture establishment (PCE) on the sixth floor of a 14-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on July 24, 2007, after due notice by publication

in *The City Record*, and then to decision on August 21, 2007; and

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

WHEREAS, the subject site is located on the northwest corner of Lexington Avenue and East 58th Street; and

WHEREAS, the site is occupied by a 14-story commercial building; and

WHEREAS, the PCE occupies approximately 8,790 sq. ft. of floor area on the sixth floor; and

WHEREAS, the applicant represents that the PCE offers facilities for classes and instruction in body-building, weight reduction, aerobics, and general physical improvement; and

WHEREAS, the PCE is operated as Velocity Performance Sports; and

WHEREAS, the hours of operation are: Monday through Friday, 6:00 a.m. to 10:00 p.m. and Saturday and Sunday, 9:00 a.m. to 4:00 p.m.; and

WHEREAS, the Board notes that the PCE has been in operation since September 1, 2004; and

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

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 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. 07BSA048M, dated June 7, 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

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WHEREAS, the Board has determined that the continued 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 a C5-2 zoning district, the legalization of a physical culture establishment on the sixth floor of a 14-story commercial building, contrary to ZR § 32-10; on condition that all work shall substantially conform to drawings filed with this application marked "Received August 6, 2007"–(1) sheet; and on further condition:

THAT the term of this grant shall expire on September 1, 2014;

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, August 21, 2007.

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

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 February 23, 2007, acting on Department of Buildings Application No. 302280519, reads in pertinent part:

"Follow the requirements of ZR 42-31 correctly.

Proposed physical culture establishment within M1-1 zoning district is not permitted and requires a special permit from the New York City Board of Standards and Appeals"; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, the legalization of a physical culture establishment (PCE) on the third floor of a three-story mixed-use commercial/manufacturing building, contrary to ZR § 42-31; and

WHEREAS, a public hearing was held on this application on July 24, 2007, after due notice by publication in *The City Record*, and then to decision on August 21, 2007; and

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

WHEREAS, the subject site is located on the south side of Atlantic Avenue, between Essex Avenue and Shepherd Avenue; and

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

WHEREAS, the PCE occupies approximately 5,689 sq. ft. of floor area on the third floor; and

WHEREAS, the applicant represents that the PCE offers facilities for classes and instruction in body-building, weight reduction, aerobics, and general physical improvement; and

WHEREAS, the PCE is operated as High Definition Fitness; and

WHEREAS, the hours of operation are: Monday through Thursday, 5:30 a.m. to 10:00 p.m.; Friday, 5:30 a.m. to 8:30 p.m.; and Saturday and Sunday, 8:00 a.m. to 7:00 p.m.; and

WHEREAS, the Board notes that the PCE has been in operation since February 17, 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 satisfactory; and

WHEREAS, the PCE will not interfere with any

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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.07BSA0068K, dated June 7, 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 continued 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 M1-1 zoning district, the legalization of a physical culture establishment on the third floor of a three-story mixed-use commercial/manufacturing building, contrary to ZR § 42-31; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received August 17, 2007"-(2) sheets; and *on further condition*:

THAT the term of this grant shall expire on February 17, 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, August 21, 2007.

315-05-BZ

APPLICANT – David L. Businelli, AIA, for Diggy's LLC, owner.

SUBJECT – Application October 28, 2005 – Zoning variance under §72-21 to allow a two-story horizontal extension of an existing three-story mixed commercial retail (UG 6) and residential building containing one (1) dwelling unit. Twenty (20) open accessory parking spaces are proposed. Proposed commercial use is contrary to use regulations (ZR §22-10). R3X district (Special South Richmond District).

PREMISES AFFECTED – 862 Huguenot Avenue, South side of Huguenot Avenue, 0' east from Hawley Avenue. Block 6815, Lot 32, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: John Ronan.

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

23-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Kehilat Sephardim, owner.

SUBJECT – Application February 9, 2006 – Variance (§72-21) to legalize, in an R4 zoning district, the expansion of an existing three-story building currently housing a synagogue and accessory Rabbi's apartment. The proposal is requesting waivers for side yards (§24-35) and front yards (§24-34).

PREMISES AFFECTED – 150-62 78th Road, southwest corner of 153rd Street and 78th Road, Block 6711, Lot 84, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO GRANT –

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

ACTION OF THE BOARD – Laid over to September 18, 2007, at 1:30 P.M., for decision, hearing closed.

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103-06-BZ

APPLICANT – Eric Palatnik, P.C., for Charles Mandlebaum, owner.

SUBJECT – Application May 23, 2006 – 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)) and rear yard (§23-47) in R-2 zoning district. PREMISES AFFECTED – 1324 East 23rd Street, East 23rd Street between Avenues M and N, Block 7658, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to September 25, 2007, at 1:30 P.M., for continued hearing.

114-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Aleksandr Levchenko, owner.

SUBJECT – Application June 6, 2006 – Special Permit (§73-622) to allow the legalization of an enlargement to a single family home in an R3-1 zoning district, which exceeds the allowable floor area ratio, open space and lot coverage (§23-141); provides less than the minimum required side yards (§23-48).

PREMISES AFFECTED – 124 Norfolk Street, west side of Norfolk Street between Shore Boulevard and Oriental Boulevard, Block 8756, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Judith ?

ACTION OF THE BOARD – Laid over to September 18, 2007, at 1:30 P.M., for continued hearing.

156-06-BZ

APPLICANT – Alfonso Duarte, for Ally Basheer, owner.

SUBJECT – Application July 13, 2006 – Variance (§72-21) for the legalization to a single family home for the enlargement on the second floor which does not comply with front yard (§23-45) zoning requirements in an R-2 zoning district.

PREMISES AFFECTED – 267-04 83rd Avenue, southeast corner of 267th Street, Block 8779, Lot 41, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Alfonso Duarte.

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 September 25, 2007, at 1:30 P.M., for decision, hearing

closed.

161-06-BZ

APPLICANT – Eric Palatnik, P.C., for Webster Affordable Solutions, LLC, owner.

SUBJECT – Application July 24, 2006 – Variance (§72-21) on behalf of the Doe Fund to permit the creation of two (2), eight (8)-story structures at the Premises located in a C8-2 zoning district. The proposal is contrary to Section 32-10.

PREMISES AFFECTED – 3349 and 3365 Webster Avenue, Webster Avenue South of Gun Hill Road, Block 3355, Lot 121, Borough of Bronx.

COMMUNITY BOARD #7BX

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 September 11, 2007, at 1:30 P.M., for decision, hearing closed.

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262-06-BZ

APPLICANT – Law Offices of Howard Goldman, LLC for Ridgewood Equities, LLC, owner.

SUBJECT – Application September 26, 2006 – Variance (§72-21) to allow the residential conversion of an existing four (4) story industrial building. The proposed project would include fifty-five (55) dwelling units and twenty-seven (27) accessory parking spaces and is contrary to requirements for minimum distance between legally required windows and walls or lot lines (§23-861). R6B zoning district.

PREMISES AFFECTED – 71-13 60th Lane, between 71st Avenue and Myrtle Avenue, Block 3538, Lot 67, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Chris Wright and Elane Kalmon.

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 September 11, 2007, at 1:30 P.M., for decision, hearing closed.

291-06-BZ

APPLICANT – Paul Bonfilio, AIA., for 6860 Austin Realty Corp., owner.

SUBJECT – Application November 2, 2006 – Special Permit (§73-44) to allow the reduction in the number of required parking spaces for an enlargement to an existing community facility building (Ambulatory Diagnostic/Treatment Facility). The Premises is located in a C8-2 zoning district. The proposal is contrary to Section 36-21.

PREMISES AFFECTED – 68-60 Austin Street, Austin Street, between Yellowstone Boulevard and 69th Road, Block 3234, Lot 29, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Paul Bonfilio and Tarek M. Zeid.

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 September 11, 2007, at 1:30 P.M., for decision, hearing closed.

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.

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 September 18, 2007, at 1:30 P.M., for decision, hearing closed.

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 Ludlow Street and Essex Street, Block 410, Lot 71, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to September 11, 2007, at 1:30 P.M., for deferred decision.

328-06-BZ

APPLICANT – Francis R. Angelino, Esq., for Okada Denki Sanyo Company Limited, owner.

SUBJECT – Application December 20, 2006 – Zoning variance under ZR §72-21 to allow an eight (8) story residential building containing six (6) dwelling units and ground floor retail use; contrary to regulations for use (§42-00, §111-104(e), and §111-102(b)). M1-5 district (Area B-2 of Special TriBeca Mixed Use District).

PREMISES AFFECTED – 50-52 Laight Street, Between Hudson and Greenwich Streets, Block 219, Lots 2 & 3, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: John Ronan.

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 October 18, 2007, at 1:30 P.M., for decision, hearing closed.

71-07-BZ

APPLICANT– Walter T. Gorman, P.E., for Exxon Mobile Corporation, owner; Ted Zorbas, lessee.

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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 an C1-4/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 October 2, 2007, at 1:30 P.M., for continued hearing.

80-07-BZ

APPLICANT – Sheldon Lobel, P.C., for 319 West LLC, owner. The Lantern Group, Incorporated, lessee.

SUBJECT – Application April 12, 2007 – Variance (§72-21) to permit a nine-story and cellar not-for-profit institution with sleeping accommodations and accessory supportive social service space. The proposal is contrary to community facility floor area (§24-111), wall height, setback, and sky exposure plane (§24-522), rear yard (§24-36), permitted reconstruction to allow the construction of a nine-story community facility building (§54-41). R8 zoning district.

PREMISES AFFECTED – 319 West 94th Street, West 94th Street between Riverside Drive and West End Avenue. Block 1253, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: John Ronan.

ACTION OF THE BOARD – Laid over to October 25, 2007, at 1:30 P.M., for continued hearing.

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, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Francine Olk and Judy Baron.

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 September 11, 2007, at 1:30 P.M., for decision, hearing closed.

99-07-BZ

APPLICANT – Eric Palatnik, P.C., for Orkin Arkadly, owner.

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

PREMISES AFFECTED – 170 Girard Street, north of Oriental Boulevard, south of Hampton Avenue, Block 8749, Lot 271, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik and Serge Mozer.

For Opposition: Judy Baron and Dr. Len Flug.

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 September 11, 2007, at 1:30 P.M., for decision, hearing closed.

118-07-BZ

APPLICANT – Rothkrug Rothkurg & Spector LLP, for A Very Special Place, Incorporated, owner.

SUBJECT – Application May 11, 2007 – Special Permit (§73-44) to allow the proposed two-story, Use Group 6B office development which has less than the required parking. The proposal is contrary to section 36-21. C1-1/R3-2 district.

PREMISES AFFECTED – 49 Cedar Grove Avenue, Between Wavcrest Street and Seaform Street. Block 4087, Lot 1 & 70, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Francine Olk and Judy Baron.

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 September 18, 2007, at 1:30 P.M., for decision, hearing closed.

MINUTES

142-07-BZ

APPLICANT – Moshe M. Friedman, for Steven Weinberger, owner.

SUBJECT – Application May 29, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area (§23-141) and side yards (§23-461) & (§23-48) in an R3-2 zoning district.

PREMISES AFFECTED – 2216 Avenue R, 56'-0" west of intersection formed by Avenue R and East 23rd Street. Block 6828, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Francine Olk and Judy Baron.

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 September 18, 2007, at 1:30 P.M., for decision, hearing closed.

146-07-BZ

APPLICANT – Slater & Beckerman, LLP, for PDPR Realty Corporation, owner.

SUBJECT – Application June 5, 2007 – Application filed pursuant to §§11-411 & 11-412 for the structural alteration and enlargement of a pre-existing nonconforming two-story parking (Use Group 8) garage allowed by a 1924 BSA action. The proposal would permit the addition of a third floor and a first floor mezzanine and the expansion of the cellar in order to increase the capacity of the public parking garage from 96 cars to the proposed 147 cars. The project is located in an R8B zoning district.

PREMISES AFFECTED – 439 East 77th Street, North side of East 77th Street, Between First and York Avenues. Block 1472, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Francine Olk and Judy Baron.

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 September 18, 2007, at 1:30 P.M., for decision, hearing closed.

166-07-BZ

APPLICANT – Wolf Block, Schorr & Solis-Cohen LLP, for Mindy Guzzone, owner. JCR Fitness, Incorporated d/b/a Fitness Together, lessee.

SUBJECT – Application June 15, 2007 – Special Permit (§73-36) to legalize the operation of a Physical Culture

establishment on the ground floor of a five-story mixed-use building. The proposal is contrary to section 32-00. C2-3 zoning district.

PREMISES AFFECTED – 213 Court Street, between Wyckoff and Warren Streets. Block 390, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Francine Olk and Judy Baron.

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 September 25, 2007, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: 4:30 P.M.