
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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DOCKET

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15-08-A

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16-08-BZ

2614 Avenue L, Avenue L between East 26th and East 27th Streets., Block 7644, Lot(s) 46, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) for the enlargement of a single family home.

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

FEBRUARY 5, 2008, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 5, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

254-06-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Sarah Weiss.

SUBJECT – Application October 19, 2005 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 1327 East 21st Street, corner of Avenue L and East 21st Street, Block 7639, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #14BK

35-07-A & 36-07-A

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Seven Waters Incorporated.

SUBJECT – Application January 31, 2007 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 3411 & 3413 Barker Avenue, west side of Barker Avenue between Duncomb Avenue and Magenta Street, Block 4626, Lot 25, Borough of Bronx.

COMMUNITY BOARD #12BX

62-07-A

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Alberto Laniado.

SUBJECT – Application March 8, 2007 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 1582 East 17th Street, western side of East 17th Street, between Avenue O and Avenue P, Borough of Brooklyn.

COMMUNITY BOARD #14BK

109-07-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Sano Construction Corporation.

SUBJECT – Application May 3, 2007 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 33-57 59th Street, Triangle formed by 59th Street, 34th Avenue and 60th Street, Block 1183, Lot 70, Borough of Queens.

COMMUNITY BOARD #2Q

FEBRUARY 5, 2008, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 5, 2008, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

299-06-BZ

APPLICANT – Blank Rome LLP by Marvin Mitzner, for Three Partners LLC, owner.

SUBJECT – Application November 13, 2006 – Variance under (§72-21) to legalize the operation of a public parking facility (garage and lot); contrary to use regulations (§22-10). R7-1 district.

PREMISES AFFECTED – 1976 Crotona Parkway, east side of Crotona Parkway, 100' north of East Tremont Avenue, Block 3121, Lots 10 & 25, Borough of Bronx.

COMMUNITY BOARD #6BX

51-07-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for 70-50 Kissena Boulevard, LLC, owner.

SUBJECT – Application February 22, 2007 – Variance (§72-21) to allow a one-story retail building (U.G. 6); contrary to use regulations (§22-00). R4 district.

PREMISES AFFECTED – 70-44 to 58 Kissena Boulevard, northwest corner of Kissena Boulevard and 70th Road, Block 6656, Lot 52, Borough of Queens.

COMMUNITY BOARD #8Q

237-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Foundation for Sephardic Studies, Inc., owner.

SUBJECT – Application October 22, 2007– Variance (§72-21) to permit the construction of a two-story community facility building to serve as an annex to the Main Building, two lots east of the subject premises. The proposal is contrary to §23-631 (maximum perimeter wall height and required setback) and §25-31 (minimum parking requirement). R5 zoning district in the Ocean Parkway Special Zoning District.

PREMISES AFFECTED – 718 Avenue S, south side of Avenue S, midblock between East 7th Street and East 8th Street, Block 7089, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #15BK

CALENDAR

263-07-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Aliza Goldbrenner and Isaac Golfbrenner, owners.

SUBJECT – Application November 14, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary open space and floor area (§23-141); side yard (§23-461(a)); and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1169 East 21st Street, East 21st Street between Avenue J and Avenue K, Block 7603, Lot 29, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, JANUARY 15, 2008
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

67-95-BZ

APPLICANT – Francis R. Angelino, Esq., for Times Square JV LLC, owner; Town Sports International, lessee.

SUBJECT – Application May 17, 2007 – Extension of Term of a previously approved Special Permit granted pursuant to §73-36 allowing the operation of a physical culture establishment on the 14 and 15 floors of the Crowne Plaza Hotel located in a C6-7T (MID) zoning district.

PREMISES AFFECTED – 1591/1611 Broadway, west side, the blockfront between West 48th and West 49th Streets, Block 1020, Lot 46, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Francis R. Angelino.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term for a previously granted special permit for a physical culture establishment (PCE), which expired on December 12, 2005; and

WHEREAS, a public hearing was held on this application on December 11, 2007 after due notice by publication in *The City Record*, and then to decision on January 15, 2008; and

WHEREAS, the subject premises is located on the west side of Broadway, between West 48th Street and West 49th Street; and

WHEREAS, the site is located within a C6-7T zoning district in the Special Midtown District and is occupied by a 46-story hotel building; and

WHEREAS, the PCE occupies 15,540 sq. ft. on the 14th floor and 9,369 sq. ft. on the 15th floor; and

WHEREAS, on July 18, 1990, under BSA Cal. No. 71-90-BZ, the Board granted a special permit to convert an existing accessory health club to a physical culture establishment on the 15th floor of the existing hotel; and

WHEREAS, on May 12, 1992, under BSA Cal. No. 567-91-BZ, the Board granted a new special permit to legalize the enlargement of the PCE into additional space on the 14th and

15th floors; and

WHEREAS, on December 12, 1995, under the subject calendar number, the Board granted another new special permit, to permit the legalization of the enlargement of the PCE into additional space on the 14th floor for a term of ten years; and

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

WHEREAS, the applicant represents that the special permit was not renewed earlier due to changes in personnel; and

WHEREAS, the Board notes that the PCE has remained in operation since December 12, 2005 when the prior term expired; and

WHEREAS, accordingly, the Board has determined that the new term shall be reduced for the period of time, between December 12, 2005 and the date of this grant, when the PCE operated without a valid special permit; 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 December 12, 1995, so that as amended this portion of the resolution shall read: “to grant an extension of the special permit for a term of ten years from the expiration of the last grant to expire on December 12, 2015; *on condition* that the use and operation of the site shall substantially conform to the approved drawings, filed with this application marked “Received May 17, 2007”– (3) sheets; and *on further condition*:

THAT this grant shall expire on December 12, 2015;

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

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

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

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. 100946336)

Adopted by the Board of Standards and Appeals, January 15, 2008.

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16-36-BZ, Vol. II

APPLICANT – Vassalotti Associates, Architects, for Cumberland Farms Incorporated, owners.

SUBJECT – Application July 17, 2007 – Extension of Term of a previously granted variance for the operation of a gasoline service station (Exxon) which expired November 1, 2007 in a C2-2/R-5 zoning district.

PREMISES AFFECTED – 1885 Westchester Avenue, northwest corner of Westchester Avenue and White Plains Road, Block 3880, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Hiram Rothkrug.

ACTION OF THE BOARD – Laid over to February 26, 2008, at 10 A.M., for continued hearing.

146-59-BZ

APPLICANT – Larry Dean Merritt, for Larry Dean Merritt, owner.

SUBJECT – Application June 20, 2007 – Z.R. §11-411 for the Extension of Term of a previously granted variance for the operation of a (UG8) parking lot which expired on May 6, 2007 in an R8 zoning district.

PREMISES AFFECTED – 686-88 Gerard Avenue, east side 180' north of 153rd Street, Block 2473, Lot 8, Borough of Bronx.

COMMUNITY BOARD #4BX

APPEARANCES –

For Applicant: Larry Dean Merritt.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to January 29, 2008, at 10 A.M., for decision, hearing closed.

390-61-BZ

APPLICANT – Peter Hirshman, for Rapid Park Industries, owner.

SUBJECT – Application September 7, 2007 – ZR 11-411 for the Extension of Term of a previously granted variance for a UG8 parking garage (Rapid Park Industries) in an R8B zoning district which will expire on March 3, 2008.

PREMISES AFFECTED – 148-150 East 33rd Street, southside of East 33rd Street, east of East 33rd Street and Lexington Avenue, Block 888, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Peter Hirshman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to January 29, 2008, at 10 A.M., for decision, hearing closed.

673-81-BZ

APPLICANT – David L. Businelli, for Joseph Montalbano, owner.

SUBJECT – Application August 20, 2007 – Extension of Term of variance granted pursuant to §72-21 permitting, in an R3-2 zoning district, the erection of a one story and cellar retail store and office building with accessory parking in the open area. The application was previously approved for a 15 year term which expired on January 5, 1997.

PREMISES AFFECTED – 2075 Richmond Avenue, East side of Richmond Avenue 461.94' N. feet from corner of Rockland Avenue, Block 2015, Lot 28, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to January 29, 2008, at 10 A.M., for postponed hearing.

16-92-BZ

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

SUBJECT – Application May 18, 2007 – Pursuant to Z.R §72-01 and §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

APPEARANCES –

For Applicant: Calvin Wong.

For Opposition: Molly Rouzie, Michael Goodall, Jozsef Keinal, Rishalorig and Adam Armstrong.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to February 26, 2008, at 10 A.M., for decision, hearing closed.

121-95-BZ

APPLICANT – Francis R. Angelino, Esq., for 37 West 46th

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Street Realty Corporation, owner.

SUBJECT – Application September 17, 2007 – Extension of Term/Waiver for a previously granted special permit (§73-36) for a physical culture establishment (Osaka Health Spa) on the third floor and mezzanine level of a six story mixed used building in a C6-4.5 zoning district which expired on February 6, 2006.

PREMISES AFFECTED – 37 West 46th Street, north/south West 46th Street, between 5th and 6th Avenues, Block 1262, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Francis R. Angelino.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to February 5, 2008, at 10 A.M., for decision, hearing closed.

297-99-BZ, Vol. II

APPLICANT – Walter T. Gorman, P.E., for Bell & Northern Bayside Co., LLC, owner; Exxon Mobil Corp., lessee.

SUBJECT – Application May 29, 2007 – Extension of Time to obtain a Certificate of Occupancy/Waiver of the rules for an existing gasoline service station (Mobil Station) which expired on September 19, 2004 in a C2-2/R6B zoning district.

PREMISES AFFECTED – 45-05 Bell Boulevard, east side blockfront between Northern Boulevard and 45th Road, Block 7333, Lot 201, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to February 12, 2008, at 10 A.M., for decision, hearing closed.

6-04-BZ, Vol. II

APPLICANT – The Law Office of Fredrick A. Becker, for Glenmore Associates, owner; New York Sports Club, lessee. **SUBJECT** – Application March 21, 2007 – Extension of Term of a variance granted pursuant to §72-21 allow the operation of a physical culture establishment located in a C1-3/R6 zoning district.

PREMISES AFFECTED – 7118-7124 Third Avenue, northwest corner of Third Avenue and 72nd Street, Block 5890, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to February 5, 2008, at 10 A.M., for continued hearing.

APPEALS CALENDAR

196-07-A thru 199-07-A

APPLICANT – Willy C. Yuin, R.A., for Carmine Lacertosa, owner.

SUBJECT – Application August 9, 2007 – Proposed construction of one & two family homes not fronting on a legally mapped street contrary to Article 3 Section 36 of the General City Law. R-5 Zoning district.

PREMISES AFFECTED – 9 Federal Place, west of Federal Place 195.91’ south of the corner of Richmond Terrace and Federal Place, Block 1272, Lot 72, 76, 77, 79, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Willy C. Yuin, R.A.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decisions of the Staten Island Borough Commissioner, dated August 4, 2007, acting on Department of Buildings Application Nos. 510006208 and 510006217, read in pertinent part:

“The street giving access to the proposed construction of a new two family attached building Use Group 2 in R-5 Residential District is not duly placed on the official map of the City of New York contrary to General City Law 36 and therefore is referred to the Board of Standards and Appeals for approval.”; and

WHEREAS, the decisions of the Staten Island Borough Commissioner, dated January 9, 2008, acting on Department of Buildings Application Nos. 510006226 and 510006235, read in pertinent part:

“The street giving access to the proposed construction of a new one family attached building Use Group 2 in R-5 Residential District is not duly placed on the official map of the City of New York contrary to General City Law 36 and therefore is referred to the Board of Standards and Appeals for approval.”; and

WHEREAS, a public hearing was held on this application on December 4, 2007, after due notice by publication in the *City Record*, and then to continued hearing on January 15, 2008, with decision on that same date; and

WHEREAS, this application requests to build two one-family homes (at 15 and 17 Federal Place) and two two-family

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homes (at 9 and 11 Federal Place) which do not front on a legally mapped street, contrary to Section 36 of the General City Law; and

WHEREAS, by letter dated September 8, 2007, the Fire Department states that it has reviewed the application and raised objections regarding access to the site as well as the layout of the proposed homes; and

WHEREAS, in response, the applicant states that all proposed homes will be fully sprinklered; the applicant submitted revised site plans which note that the homes will comply with Local Law 10 of 1999; and

WHEREAS, by letter dated December 24, 2007, the Fire Department states that it has reviewed the revised site plans and does not have any objections; and

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

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated August 4, 2007, and January 9, 2008, acting on Department of Buildings Application Nos. 510006208, 510006217, 510006226, and 510006235 are modified by the power vested in the Board by Section 36 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 drawings filed with the application marked "Received January 7, 2008"-(2) sheets; 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 DOB shall approve the lot subdivision prior to the issuance of permits;

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, January 15, 2008.

240-07-A

APPLICANT – Sheldon Lobel, P.C., for 1270 Bay Ridge Parkway Development, LLC, owner.

SUBJECT – Application October 24, 2007 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R4/C1-2 zoning district. R4-1 zoning district.

PREMISES AFFECTED – 1270 Bay Ridge Parkway, 12th Avenue and 13th Avenue, Block 6221, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Sheldon Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....5

THE RESOLUTION –

WHEREAS, this is an appeal requesting a Board determination that the owner of the premises has obtained the right to complete a proposed mixed-use building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on December 11, 2007 after due notice by publication in *The City Record*, and then to decision on January 15, 2008; and

WHEREAS, the site was inspected by Chair Srinivasan, Vice Chair Collins and Commissioner Hinkson; and

WHEREAS, Council Member Gentile provided a letter in support of the proposal; and

WHEREAS, certain neighbors also submitted letters in support of the proposal; and

WHEREAS, the applicant states that the subject site consists of a 6,000 sq. ft. lot fronting on the south side of Bay Ridge Parkway between 12th Avenue and 13th Avenue in the Dyker Heights neighborhood of Brooklyn; and

WHEREAS, the applicant proposes to develop the site with a three-story mixed-use building with six dwelling units and a total floor area of 13,477 sq. ft. containing 3,050 sq. ft. of commercial floor area, 590 sq. ft. of community facility floor area and 6,617 sq. ft. of residential floor area; and

WHEREAS, the subject site was formerly located within an R4 zoning district with a C1-2 overlay on a portion of the site; and

WHEREAS, the proposed building complies with the former zoning district parameters; and

WHEREAS, however, on July 25, 2007 (hereinafter, the "Rezoning Date"), the City Council voted to adopt the Dyker Heights Rezoning, which rezoned the site to R4-1; and

WHEREAS, the building does not comply with the R4-1 district parameters as to residential density, permitted uses, and front and side yards; and

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

WHEREAS, DOB has confirmed that New Building Permit No. 302298500 (hereinafter, the "New Building Permit") was lawfully issued to the owner by DOB on July 12, 2007, prior to the Rezoning Date; and

WHEREAS, thus, the Board finds that the permits were validly issued by DOB to the owner of the subject premises and were in effect until the Rezoning Date; and

WHEREAS, assuming that valid permits had been issued and that work proceeded under them, the Board notes that a common law vested right to continue construction generally exists where: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures;

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and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, the applicant cites to Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10, 15, 382 N.Y.S.2d 538, 541 (2d Dept. 1976) for the proposition that where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance;" and

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

WHEREAS, as to substantial construction, the applicant states that before the Rezoning Date, the owner had completed site preparation, shoring of adjacent properties and nearly all the excavation; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: photographs of the site; affidavits of the architect and general contractor; an invoice from the general contractor stating the amount of work completed; cancelled checks; and accounting summaries; and

WHEREAS, the architect and general contractor both state that 90 percent of the excavation and all site clearance and shoring activities were completed by the Rezoning Date; and

WHEREAS, the Board concludes that given the size of the site, and based upon a comparison of the type and amount of work completed in the instant case with the type and amount of work found by New York State courts to support a positive vesting determination, a significant amount of work was performed at the site prior to the rezoning; and

WHEREAS, the Board also notes that the site preparation and excavation at the site indisputably occurred prior to the Rezoning Date; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed and the supporting documentation and agrees that it establishes that significant progress was made prior to the Rezoning Date, and that said work was substantial enough to meet the guideposts established by case law; and

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

WHEREAS, the applicant states that prior to the Rezoning Date, the owner expended \$1,670,093, including hard and soft costs and irrevocable commitments, out of \$3,291,463 budgeted for the entire project; and

WHEREAS, as proof of the expenditures, the applicant has submitted invoices, cancelled checks, and accounting reports; and

WHEREAS, the Board notes that the budgeted expenditures included site purchase costs which, for the purposes of its analysis here, the Board has excluded; and

WHEREAS, thus, based upon the applicant's representation as to the total project cost and these particular site purchase costs, the Board concludes that the actual construction costs for the proposed construction, both soft and hard, approximate \$2 million; and

WHEREAS, in relation to actual construction costs and related soft costs, the applicant specifically notes that the owner had paid \$102,761 for demolition, disposal of excavated fill, shoring materials, manufacture of structural steel, construction waste containers, architectural and engineering fees; and

WHEREAS, the applicant further states that the owner also irrevocably owed an additional \$1.8 million in connection with the proposed construction, because it had executed binding contracts for work and materials, including \$284,500 in outstanding fees to the construction manager; and

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

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

WHEREAS, as to serious loss, such a determination may be based in part upon a showing that certain of the expenditures could not be recouped if the development proceeded under the new zoning; and

WHEREAS, the applicant contends that the loss of the \$387,261 associated with pre-Rezoning Date project costs that would result if this appeal was denied is significant; and

WHEREAS, additionally, the applicant explained the diminution in income that would occur if the residential density limits, front and side yard requirements, and restrictions on commercial use of the new zoning were imposed; and

WHEREAS, specifically, the inability to develop the proposed building would require the owner to re-design the development; and

WHEREAS, the applicant represents that a complying development would have a maximum of four dwelling units in two buildings with a total floor area of 4,200 sq. ft., due to the R4-1 zoning district's required front and side yard and density and use restrictions; and

WHEREAS, additionally, as noted by the applicant, soil excavated along the western lot line would have to be backfilled for such a complying building, further compounding the economic harm to the owner; and

WHEREAS, the Board agrees that the need to redesign, the limitations of any complying development, and the \$387,020 of actual expenditures and outstanding fees that could not be recouped constitute, in the aggregate, a serious

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economic loss, and that the supporting data submitted by the applicant supports this conclusion; and

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

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a reinstatement of DOB Permit No. 302298500, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for four years from the date of this grant.

Adopted by the Board of Standards and Appeals, January 15, 2008.

39-07-A thru 40-07-A

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

SUBJECT – Application February 2, 2007 – Proposed 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

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to February 26, 2008, at 10 A.M., for continued hearing.

64-07-A

APPLICANT – Stuart A. Klein, Esq., for Sidney Frankel, owner.

SUBJECT – Application March 12, 2007 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R6 zoning district regulations. R4-1 zoning district.

PREMISES AFFECTED – 1704 Avenue N, a/k/a 1702-04 – 1411-1421 East 17th Street, southeast corner lot at intersection of East 17th Street and Avenue N, Block 6755, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Stuart A. Klein.

For Opposition: Edward McCabe and Ellen Messing.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to February

12, 2008, at 10 A.M., for decision, hearing closed.

140-07-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP

Owner: Breezy Point Cooperative, Incorporated

Lessee: Thomas Carroll

SUBJECT – Application May 25, 2007 – Appeals seeking to reverse the Department of Building's decision to revoke permits and approvals for a one family home. R4 Zoning district.

PREMISES AFFECTED – 607 Bayside Drive, North west intersection of Bayside Drive and zoning street know as Service Lane, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES – None.

ACTION OF THE BOARD – Off calendar without date.

204-07-BZY

APPLICANT – Sheldon Lobel, P.C., for Washington-Hall Holdings, LLC, owner.

SUBJECT – Application August 17, 2007 – Proposed extension of time (§11-332) to complete construction of a minor development of a 15 story mixed use building under the prior R6/C1-3 Zoning District.

PREMISES AFFECTED – 163-167 Washington Avenue, approximately 80' from the northeast corner of Myrtle Avenue and Washington Avenue, Block 1890, Lots 1, 4, 82, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Jordan Most and Richard Esposito.

For Opposition: Council Member Lelita James, Olga Akselrod, Rosaria Sinisi, Scott Witter, Jane Flanders, Peter Eide, Schellie Hagan and Patti Hagan.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to March 4, 2008, at 10 A.M., for decision, hearing closed.

270-07-A

APPLICANT – Sheldon Lobel, P.C., for Washington Hall Holdings, LLC, owner.

SUBJECT – Application November 27, 2007 – seeking a determination that the owner has acquired a common law vested right to continue development under the prior R6 zoning.

PREMISES AFFECTED – 163-167 Washington Avenue, approximately 80' from the northeast corner of Myrtle Avenue and Washington Avenue, Block 1890, Lots 1, 4, 82, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

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For Applicant: Jordan Most and Richard Esposito.
For Opposition: Council Member Lelita James, Olga Akselrod, Rosaria Sinisi, Scott Witter, Jane Flanders, Peter Eide, Schellie Hagan and Patti Hagan.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to March 4, 2008, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director

Adjourned: 11:30 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, JANUARY 15, 2008
1:30 P.M.**

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

ZONING CALENDAR

**315-06-BZ
CEQR #07-BSA-042K**
APPLICANT – Eric Palatnik, P.C., for Merkaz, The Center, Inc., owner.
SUBJECT – Application December 6, 2006 – Variance (§72-21) to permit the proposed three-story religious-based pre-school, which will include an accessory synagogue. The premises is located within two zoning districts, an R5B and R2, with the vast majority (95%) resting within the R5B district. The proposal is contrary to §§24-11, 24-34, 24-35, 24-36 and 24-521.
PREMISES AFFECTED – 1739 Ocean Avenue, between Avenues L and M, Block 7638, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #14BK
APPEARANCES –
For Applicant: Eric Palatnik.
ACTION OF THE BOARD – Application granted on condition.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson..4
Negative:.....0
Abstain: Commissioner Montanez.....1
THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 24, 2006, acting on Department of Buildings Application No. 301914542, reads, in pertinent part:

“Proposed development does not comply with:
- ZR 24-34 Front Yard
- ZR 24-35 Side Yard
- ZR 24-36 Rear Yard
- ZR 24-11 Floor Area Ratio
- ZR 24-11 Lot Coverage;
- ZR-24-521 Height and Setback;” and

WHEREAS, this is an application under ZR § 72-21 to permit, on a site partially within an R5B zoning district and partially within an R2 zoning district, the construction of a three-story and cellar synagogue and accessory religious-based preschool (Use Group 4), which does not comply with the requirements for front, side and rear yards, floor area ratio, lot coverage, and height and setback, contrary to ZR §§ 24-11, 24-34, 24-35, 24-36, 24-511, and 24-521; and

WHEREAS, the application is brought on behalf of Merkaz – The Center, Inc. (“Merkaz”) a nonprofit religious institution; and

WHEREAS, a public hearing was held on this application on April 17, 2007 after due notice by publication in the *City Record*, with continued hearings on June 19, 2007, August 7, 2007, September 25, 2007, November 20, 2007 and December 11, 2007, and then to decision on January 15, 2008; and

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

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

WHEREAS, residents of the surrounding community provided testimony in opposition to the proposal, citing concerns with impact on neighborhood character; and

WHEREAS, City Council Member Bill deBlasio provided testimony in support of the application; and

WHEREAS, certain congregation members provided testimony in support of the application; and

WHEREAS, the subject site is located on the east side of Ocean Avenue, between Avenue L and Avenue M in the Midwood section of Brooklyn and is currently vacant; and

WHEREAS, the subject lot is approximately 3,630 sq. ft. and is located partially within an R5B zoning district and partially within an R2 zoning district; and

WHEREAS, as originally proposed, the three-story and cellar synagogue with accessory preschool (UG 4) was to have the following parameters: 10,255 sq. ft. of floor area and an FAR of 2.825, a lot coverage of greater than 95.6 percent, a wall height of 36’-3”, a front yard of 3’-6”, and no rear or side yards; and

WHEREAS, during the hearing process the proposal was substantially modified; the current proposal provides for: floor area of 7,373 sq. ft., an FAR of 2.0; a lot coverage ratio of 82 percent, a wall height of 34’-6”, a front yard of 5’-0”, a rear yard of 15’-0” up to the second story and one side yard of 2’-0” on the northern lot line; and

WHEREAS, the zoning district regulations limit lot coverage to 56 percent and requires a front yard of 10’-0”, a rear yard of 30’-0” and two side yards with minimum widths of

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8'-0" each; and

WHEREAS, the proposed building will have the following program: (1) a playroom/gym, kitchen, mechanical room and storage in the cellar; (2) synagogue space and rabbi's office on the first floor; (3) nursery and pre-school classrooms on the second and third floors; and (4) outdoor play space on the roof; and

WHEREAS, the first floor will have 2,790 sq. ft. of floor area, the second floor will have 2,970 sq. ft. of floor area and the third floor will have 1,612 sq. ft. of floor area, for a total of 7,323 sq. ft. of floor area and an FAR of approximately 2.0; and

WHEREAS, the maximum permitted floor area is 7,095 sq. ft. and the maximum FAR for community facility buildings or buildings used partly for community facility uses is 1.9; and

WHEREAS, the applicant represents that the variance request is necessitated by the programmatic needs of Merkaz, which includes its mission to provide a synagogue for its new congregation, a pre-school school for religious and secular education to benefit children in the surrounding Orthodox Jewish community, and adult education classes; and

WHEREAS, the applicant represents that Merkaz has a congregation of approximately 20 families and has no formal place of worship; and

WHEREAS, the proposed building will also allow Merkaz to offer religious-based education for up to 80 children aged two to five; and

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

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

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

WHEREAS, religious institutions are entitled to locate on their property facilities for other uses that are reasonably associated with their overall purposes and a day care center/preschool has been found to constitute such a use. See Uni. Church v. Shorten, 63 Misc.2d 978, 982 (Sup. Ct. 1970); and

WHEREAS, however, the applicant also presents the following site conditions which create an unnecessary hardship in developing the site in compliance with applicable regulations

as to lot coverage and yards: the site has a width of 33'-0" and if both the required 8'-0" side yards were provided, the complying building would have a width of approximately 17'-0"; and

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

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

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

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

WHEREAS, in response to the request of the Board, the applicant has submitted a detailed analysis of the program needs of Merkaz on a space-by-space and time-allocated basis which confirms that the daily simultaneous use of the overwhelming majority of the spaces requires the proposed floor area and layout and associated waivers; and

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

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

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

WHEREAS, specifically, the applicant represents that the adjacent site to the north is developed with a six-story multiple-dwelling; and

WHEREAS, the applicant further represents that the surrounding area is developed with buildings comparable in size to the proposed building; and

WHEREAS, the applicant submitted photographic documentation in support of the proposed building's consistency with the character of the neighborhood; and

WHEREAS, during the hearing process, the proposal was substantially modified to reduce the height, floor area and lot coverage, to provide a 2'-0" side yard and a larger front yard, and a 15'-0" rear yard, which increases above the second floor to a setback of 47'-0"; and

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WHEREAS, as a community facility, Merkaz would be permitted to build to the rear lot line up to a height of 23 feet; and

WHEREAS, the Board agrees that the proposed three-story with cellar building is compatible with the surrounding residential area with respect to both use and bulk; and

WHEREAS, concerns were raised by the Fire Department concerning the lack of a secondary means of egress from the site; and

WHEREAS, in response the applicant stated that a secondary means of egress would be provided by the adjacent property; and

WHEREAS, the Board directed the applicant to maintain an easement guaranteeing such egress; and

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

WHEREAS, the applicant states that the hardship was not self-created and is inherent in the shape of the site, which renders it unsuitable for as-of-right development; and

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

WHEREAS, as originally proposed, the building was to have 10,255 sq. ft. of floor area and an FAR of 2.825, a lot coverage of greater than 95.6 percent, a wall height of 36'-3", a front yard of 3'-6", and no rear or side yards; and

WHEREAS, in response to concerns raised by the Board, the applicant revised the proposal to provide for 7,373 sq. ft. of floor area and an FAR of 2.0, lot coverage of 82 percent, a wall height of 34'-6", a front yard of 5'-0", a rear yard of 15'-0", and one side yard of 2'-0" on the northern lot line; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA020K, dated November 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: November 6, 2006 EAS and the August 29, 2006 Phase I Environmental Site Assessment Report;

WHEREAS, these submissions specifically examined the proposed action for Hazardous Materials and Air Quality; and

WHEREAS, a DEP Restrictive Declaration (the "DEP RD") was executed on March 6, 2007 and submitted for proof of recording on March 21, 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 application under ZR § 72-21 to permit, within a site located partially within an R5B zoning district and partially within an R2 zoning district, the construction of a three-story and cellar synagogue and accessory religious-based preschool (Use Group 4), which does not comply with the requirements for front, side and rear yards, floor area ratio, and lot coverage, contrary to ZR §§ 24-11, 24-34, 24-35, 24-36, 24-511, and 24-521, *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 November 29, 2007" – (15) sheets; and *on further condition*:

THAT, the proposed synagogue/accessory pre-school shall have a floor area of 7,373 sq. ft., an FAR of 2.0, lot coverage of 82 percent, a 2'-0" side yard along the northern lot line, a front yard of 5'-0", and a rear yard of 15'-0";

THAT any change in ownership or use of the building shall be reviewed and approved by the Board;

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, prior to the issuance of the Certificate of Occupancy, an easement to provide a secondary means of egress to the site be recorded against the title of the adjacent property located at Block 7638, Lot 22;

THAT the aforementioned condition be noted on the approved plans and on the Certificate of Occupancy; and

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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, January 15, 2008.

88-07-BZ

APPLICANT – Eric Palatnik, P.C., for Lisa Roz and Ronnie Roz, owners.

SUBJECT – Application April 19, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary floor area and lot coverage (§23-141(b)); side yard (§23-461(a)) and rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1633 East 29th Street, eastern border of 29th Street, south of Avenue P and North of Quentin Road, Block 6792, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Montanez.....1

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated October 22, 2007, acting on Department of Buildings Application No. 302263903, reads in pertinent part:

- “1. Proposed floor area exceeds that which is permitted and is contrary to ZR 23-141(b).
2. Proposed lot coverage exceeds that which is permitted and is contrary to ZR 23-141(b).
3. Proposed rear yard does not meet minimum required and is contrary to ZR 23-47.”; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, lot coverage, and rear yard, contrary to ZR §§ 23-141(b) and 23-47; and

WHEREAS, a public hearing was held on this application on September 11, 2007, after due notice by publication in *The City Record*, with continued hearings on October 16, 2007 and November 27, 2007, and then to decision on January 15, 2008; and

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

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

WHEREAS, the subject site is located on the east side

of East 29th Street, between Avenue P and Quentin Road; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft., and is occupied by a single-family home with a floor area of 2,086 sq. ft. (0.42 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,086 sq. ft. (0.42 FAR), to 5,068 sq. ft. (1.01 FAR); the maximum floor area permitted is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide a lot coverage of 38 percent (a maximum of 35 percent is permitted); and

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

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

WHEREAS, the applicant initially proposed to enlarge the existing home in the front and in the rear; and

WHEREAS, at hearing, the Board raised concerns about whether a sufficient portion of the existing home would be retained; and

WHEREAS, in response, the applicant redistributed the new floor area so that it was confined to the rear and side of the existing home and would not encroach into the existing front yard; and

WHEREAS, additionally, the applicant identified which portions of the existing building would be retained; and

WHEREAS, further, the Board directed the applicant to either justify the proposed perimeter wall height of 24’-2” or reduce it to 21’-0”;

WHEREAS, in response, the applicant reduced the perimeter wall height to 21’-0”;

WHEREAS, finally, at hearing, the Board asked the applicant to confirm that the proposed building fit within the permitted building envelope and did not penetrate the sky exposure plane; and

WHEREAS, in response, the applicant revised the plans to reflect a new roof design which fits within the permitted building envelope; and

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

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

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

WHEREAS, therefore, the Board has determined that

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the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, lot coverage, and rear yard, contrary to ZR §§ 23-141(b) 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 November 13, 2007"-(6) sheets and "January 10, 2008"-(8) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the floor area of the attic shall be limited to 1,313 sq. ft.;

THAT the above conditions 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 5,068.27 sq. ft. (1.01 FAR), a rear yard with a minimum depth of 20'-0", and a maximum lot coverage of 38 percent, 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 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.

Adopted by the Board of Standards and Appeals, January 15, 2008.

182-07-BZ

APPLICANT – Harold Weinberg, P.E, for Harry Shlyonsky, owner.

SUBJECT – Application July 20, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary lot coverage, open space and floor area (§23-141) in an R3-1 zoning district.

PREMISES AFFECTED – 229 Exeter Street, east side 220' south of Oriental Boulevard, between Oriental Boulevard and Esplanade, Block 8743, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 16, 2008, acting on Department of Buildings Application No. 302358277, 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 open space and is contrary to Section 23-141 of the Zoning Resolution (ZR).
2. Increases the degree of non-compliance with respect to floor area ratio and is contrary to Sections 23-141 & 54-31 ZR.
3. The proposed enlargement in the rear yard extends the degree of non-compliance with respect to rear yards and is contrary to Sections 23-47 and 54-31 of the Zoning Resolution."; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for lot coverage, open space, floor area, and rear yard, contrary to ZR §§ 23-141, 23-47, and 54-31; and

WHEREAS, a public hearing was held on this application on December 11, 2007, after due notice by publication in *The City Record*, and then to decision on January 15, 2008; and

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

WHEREAS, the subject site is located on the east side of Exeter Street, between Oriental Avenue and the Esplanade; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 2,349.9 sq. ft. (0.59 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,349.9 sq. ft. (0.59 FAR), to 3,982.2 sq. ft. (0.99 FAR); the maximum floor area permitted is 2,400 sq. ft. (0.60 FAR, with attic); and

WHEREAS, the proposed enlargement will provide a lot coverage of 39.8 percent (a maximum of 35 percent is permitted); and

WHEREAS, the proposed enlargement will provide an open space of 2,409.1 sq. ft. (2,600 sq. ft. is the minimum required); and

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

MINUTES

WHEREAS, the enlargement of the building is not located within 20'-0" of the rear lot line; and

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

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for lot coverage, open space, floor area, and rear yard, contrary to ZR §§ 23-141, 23-47, and 54-31; and; *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 November 14, 2007"-(11) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the floor area of the attic shall be limited to 800.48 sq. ft.;

THAT the above conditions 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 3,982.22 sq. ft. (0.99 FAR), a rear yard with a minimum depth of 20'-0", a maximum lot coverage of 39.8 percent, and a minimum open space of 2,409.1 sq. ft., 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 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.

Adopted by the Board of Standards and Appeals, January 15, 2008.

53-07-BZ

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

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

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

COMMUNITY BOARD #7BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to February 26, 2008, at 1:30 P.M., for deferred decision.

MINUTES

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

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to February 5, 2008, at 10 A.M., for decision, hearing closed.

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 §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

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to February 12, 2008, at 1:30 P.M., for adjourned hearing.

730-72-BZ

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

SUBJECT – Application October 10, 2007 – Amendment to permit the operation of a Physical Culture Establishment on the first floor of the enlarged portion of an existing building.

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

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to February 12, 2008, at 1:30 P.M., for adjourned hearing.

111-07-BZ

APPLICANT – Harold Weinberg, P.E., for Javier Galvez, owner .

SUBJECT – Application May 4, 2007 – Special Permit (§73-622) for the In-Part Legalization of an enlargement to a single family home. This application seeks to vary lot coverage, open space and floor area (§23-141) and side yard (§23-461) in an R3-1 zoning district. It is also proposed to remove the non-complying roof and replace with a complying one.

PREMISES AFFECTED – 155 Norfolk Street, east side, 325’ north of Oriental Boulevard, between Oriental Boulevard and Shore Parkway, Block 8757, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

ACTION OF THE BOARD – Laid over to February 26, 2008, at 1:30 P.M., for adjourned hearing.

114-07-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Sullivan Mountain RE, LLC, owner.

SUBJECT – Application May 7, 2007 – Special Permit (§73-19) to allow a day-care center (school), (UG3). M1-1 district.

PREMISES AFFECTED – 7-05 152nd Street, 152nd Street, east side at intersection with Powells Cove Boulevard, Block 4531, Lot 35, Borough of Queens.

COMMUNITY BOARD # 7Q

APPEARANCES –

For Applicant: Joseph P. Morsellino.

For Opposition: Councilmember Tony Avella, James Raymond, Helen Paladino and Maria H. Stern.

ACTION OF THE BOARD – Laid over to February 26, 2008, at 1:30 P. M., for continued hearing.

121-07-BZ

APPLICANT – Juan D. Reyes, III, for 400 Victory Boulevard Trust, owner.

SUBJECT – Application May 11, 2007 – Variance (§72-21) to permit the legalization of a Physical Culture Establishment on the first and second floors of an existing nonconforming warehouse building. The proposal is contrary to §22-00. The Premises is located in an R3-2 zoning district within the Special Hillside Preservation District.

PREMISES AFFECTED – 400 Victory Boulevard, between Austin Place and Cobra Avenue, Block 579, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Juan D. Reyes, III.

THE VOTE TO CLOSE HEARING –

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

MINUTES

Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to February 12, 2008, at 1:30 P.M., for decision, hearing closed.

122-07-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Kingswood Partners, LLC, owner; TSI Midwood LLC, owner.

SUBJECT – Application May 15, 2007 – Special Permit (§73-36) to legalize the operation of a Physical Culture Establishment on portions of the first and second floors of a three-story commercial building. The proposal is contrary to §32-00. C4-4A zoning district.

PREMISES AFFECTED – 1630 East 15th Street, westerly side of East 15th Street, 50' north of Kings Highway, Block 6777, Lots 17 and 24, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to February 5, 2008, at 1:30 P.M., for decision, hearing closed.

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

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to February 12, 2008, at 1:30 P.M., for decision, hearing closed.

143-07-BZ

APPLICANT – Moshe M. Friedman, for Chabad House of Canarsie, Inc., owner.

SUBJECT – Application June 4, 2007 – Variance (§72-21) to permit the construction of a three-story and cellar synagogue, religious pre-school, and Mikva. The proposal is contrary to §24-111 (a) and §23-141 (a) (Floor Area and FAR), §24-11 (Open Space and Lot Coverage), §24-521 (Front Wall and Sky Exposure Plane), §24-34 (Front Yard), §24-35 (Side Yard), §25-31 (Parking). R2 district.

PREMISES AFFECTED – 6404 Strickland Avenue, south east corner of Strickland Avenue and East 64th Street, Block 8633, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Moshe Friedman and Lori Shenetz.

For Opposition: Saul Needle of Community Board 18, Alan DeBlase and others.

ACTION OF THE BOARD – Laid over to March 18, 2008, at 1:30 P.M., for continued hearing.

151-07-BZ

APPLICANT – Harold Weinberg, P.E., for John Perrone, owner.

SUBJECT – Application June 8, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area, lot coverage, open space (§23-141) and rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 1133 83rd Street, north side, 256' east of 11th Avenue between 11th Avenue and 12th Avenue, Block 6301, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

For Opposition: Vito Mancini.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to January 29, 2008, at 1:30 P.M., for decision, hearing closed.

193-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Alex Gonter and Mark Gonter, owners.

SUBJECT – Application August 7, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space (§23-141); side yard (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 3591 Bedford Avenue, eastern side of Bedford Avenue between Avenue N and O, Block 7679, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

MINUTES

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to February 12, 2008, at 1:30 P.M., for continued hearing.

201-07-BZ

APPLICANT – Cozen O’Connor Attorneys, for Kapsin & Dallis Realty, Corp., owner.

SUBJECT – Application August 14, 2007 – Variance (§72-21) to permit a new one-story bank. The proposal is contrary to section 22-00. R3-2 district.

PREMISES AFFECTED – 2317 Ralph Avenue, southwest corner of Ralph Avenue and Avenue M, Block 8364, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD # 18BK

APPEARANCES –

For Applicant: Peter Geis.

ACTION OF THE BOARD – Laid over to February 26, 2008, at 1:30 P.M., for adjourned hearing.

211-07-BZ

APPLICANT – Eric Palatnik, P.C., for Dave Weiss, owner.

SUBJECT – Application September 7, 2007 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (§23-141); side yard (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1149 East 22nd Street, north of Avenue K, south of Avenue J, Block 7604, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to January 29, 2008, at 1:30 P.M., for decision, hearing closed.

217-07-BZ

APPLICANT – Eric Palatnik, PC, for Clara Tarantul, owner.

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

PREMISES AFFECTED – 25 Beaumont Street, between Shore Boulevard and Hampton Avenue, Block 8728, Lot 95, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to February

12, 2008, at 1:30 P.M., for continued hearing.

236-07-BZ

APPLICANT – Jay A. Segal, Esq., for Hope Street Ventures, LLC, owner.

SUBJECT – Application October 17, 2007 – Special Permit (§73-46) to allow a waiver of parking requirements for a residential conversion of an existing building. 46 spaces are required; 11 spaces are proposed. M1-2/R6A (MX-8) district.

PREMISES AFFECTED – 53-65 Hope Street, north side of Hope Street between Havemeyer Street and Marcy Avenue, Block 2369, Lot 38, 40, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Jay Segal and Melaney McMorny.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to February 12, 2008, at 1:30 P.M., for decision, hearing closed.

249-07-BZ

APPLICANT – Harold Weinberg, P.E., for Varda Grodko, owner.

SUBJECT – Application November 2, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary side yard requirement (§23-461) in an R3-2 zoning district.

PREMISES AFFECTED – 1865 East 28th Street, east side, 215’ north of Avenue S between Avenue R and S, Block 6834, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to February 12, 2008, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: 4:00 P.M.