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AND APPEALS

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CONTENTS

DOCKET643

CALENDAR of October 28, 2008

Morning644

Afternoon644/645

CONTENT

**MINUTES of Regular Meetings,
Tuesday, September 23, 2008**

Morning Calendar646

Affecting Calendar Numbers:

709-55-BZ 2000 Rockaway Parkway, Brooklyn
 681-68-BZ 137-42 Guy Brewer Boulevard, Queens
 705-68-BZ 88-14/22 182nd Street, Queens
 389-85-BZ 2090 Bronxdale Avenue, Bronx
 222-90-BZ 80-02 Kew Gardens Road, Queens
 68-94-BZ 2100 Bartow Avenue, Bronx
 24-96-BZ 213 Madison Street, Manhattan
 340-03-BZ 408 Greenwich Street, Manhattan
 151-08-BZY 5-15 West 125th Street, Manhattan
 168-08-A 1479 Rosedale Avenue, Bronx
 152-08-A 515 West 23rd Street, Manhattan
 177-08-A 515 West 23rd Street, Manhattan

Afternoon Calendar649

Affecting Calendar Numbers:

238-07-BZ 5-11 47th Avenue, Queens
 245-07-BZ 220 Water Street, Brooklyn
 94-08-BZ 1501 Pitkin Avenue, Brooklyn
 145-08-BZ 1121 East 28th Street, Brooklyn
 148-08-BZ 1383 East 27th Street, Brooklyn
 165-08-BZ 11 Penn Plaza, Manhattan
 243-07-BZ &
 244-07-A 120 John Street, Staten Island
 257-07-BZ 3 East 101st Street, Manhattan
 291-07-BZ 1912 New York Avenue, Brooklyn
 59-08-BZ 591 Forest Avenue, Staten Island
 76-08-BZ 621 Beach 9th Street, Queens
 79-08-BZ 117-23 132nd Street, Queens
 84-08-BZ 67-24 Main Street, Queens
 89-08-BZ 1101 Victory Boulevard, Staten Island
 93-08-BZ 112-12, 112-18, 112-24 Astoria Boulevard, Queens
 159-08-BZ 68-70 Spring Street, Manhattan
 178-08-BZ 153 Norfolk Street, Brooklyn
 185-08-BZ 170 Claremont Avenue, Manhattan
 194-08-BZ 432 Lafayette Street, Manhattan

**MINUTES of Special Hearing,
Wednesday, September 24, 2008**

Morning Calendar669

Affecting Calendar Numbers:

136-08-A 846 70th Street, Brooklyn
 202-08-BZY 131 Second Place, Brooklyn
 212-08-A 131 Second Place, Brooklyn

Correction670

Affecting Calendar Numbers:

713-55-BZ 181-05 Horace Harding Expressway, Queens
 190-92-BZ 180 East End Avenue, Manhattan
 170-93-A 220 Industrial Loop, Staten Island

DOCKET

New Case Filed Up to September 23, 2008

236-08-BZ

1986 East 3rd Street, West side of East 3rd Street, approximately 100 feet south of Avenue S., Block 7105, Lot(s) 152, Borough of **Brooklyn**, **Community Board: 15**. Special Permit (73-622) for the enlargement of a single family home.

237-08-BZ

37 Hillside Avenue, South side of Hillside Avenue approximately 450' east of the intersection of Broadway and Hillside Avenue., Block 2170, Lot(s) 118, Borough of **Manhattan**, **Community Board: 12**. Variance to allow a mixed residential and community facility building, contrary to bulk regulations.

238-08-BZ

876 Kent Avenue, West side of Kent Avenue, approximately 91' north of the intersection of Myrtle Avenue., Block 1897, Lot(s) 56, Borough of **Brooklyn**, **Community Board: 3**. Variance to allow a residential building, contrary to use regulations.

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

OCTOBER 28, 2008, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 28, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

739-76-BZ

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

SUBJECT – Application September 16, 2008 – Extension of Term & Extension Time to obtain a Certificate of Occupancy for a (UG15) Amusement Arcade (Peter Pan Games), in a C4-1 zoning district which will expire on April 10, 2009.

PREMISES AFFECTED – 12-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

COMMUNITY BOARD #7Q

117-97-BZ

APPLICANT – Vito J. Fossella, P.E. (LPEC), for Gosehine Garcia, owner.

SUBJECT – Application August 28, 2008 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a legal non-conforming (UG6) eating and drinking establishment (Basille's) in an R3-2 zoning district which expired on September 15, 2008.

PREMISES AFFECTED – 1112 Forest Avenue, south side of Forest Avenue, 25' west of the intersection of Forest Avenue and Greenleaf Place, Block 352, Lot 47, Borough of Staten Island.

COMMUNITY BOARD #1SI

197-00-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for SLG Graybar Sublease LLC, owner; Equinox 44th Street, Incorporated, lessee.

SUBJECT – Application August 8, 2008 – Application to amend a special permit previously granted by the Board of Standards and Appeals to permit, in a C5-3 (MiD) zoning district, a 1,010 sq. ft. extension of an existing physical culture establishment ("Equinox Fitness") within an existing commercial building.

PREMISES AFFECTED – 420 Lexington Avenue, west side of Lexington Avenue, 208'4" north of East 42nd Street, Block 1280, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEALS CALENDAR

149-08-A

APPLICANT – Jack Lester, for Neighbors, et al, owner.
SUBJECT – Application May 29, 2008 – Appeal seeking to revoke permits and approvals for a 30 story mixed use building that allow violations of the zoning regulations on open space, parking, curb cuts and proper use group classification. R7-2/C1-5 zoning district.

PREMISES AFFECTED – 808 Columbus Avenue, 97th and 100th Street and Columbus Avenue, Block 1852, Lots 5, 15, 20, 23, 25, 31, Borough of Manhattan.

COMMUNITY BOARD #7M

OCTOBER 28, 2008, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, October 28, 2008, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

203-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Gastar, Inc., owner.

SUBJECT – Application August 17, 2007 – Variance (§72-21) to allow a new thirteen (13) story mixed-use building containing twenty (20) dwelling units, ground floor retail and third and fourth floor community facility (medical) uses; contrary to bulk and parking regulations (§ 35-311 & § 36-21). R6/C2-2 district.

PREMISES AFFECTED – 137-35 Elder Avenue (aka 43-49 Main Street) located at the northwest corner of Main Street and Elder Avenue, Block 5140, Lot 40, Borough of Queens.

COMMUNITY BOARD #7Q

134-08-BZ

APPLICANT – Eric Palatnik, P.C., for Asher Goldstein, owner.

SUBJECT – Application April 30, 2008 – Variance (§72-21) to construct a third floor to an existing two story, two family semi-detached residence partially located in an R-5 and M1-1 zoning district.

PREMISES AFFECTED – 34 Lawrence Avenue, Lawrence Avenue, 80' west of McDonald Avenue, Block 5441, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #12BK

170-08-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for Cornell University, owner.

CALENDAR

SUBJECT – Application June 25, 2008 – Variance (§72-21) to permit the construction of a research building (Weill Cornell Medical College) with sixteen occupied stories and two mechanical floors. The proposal is contrary to ZR Sections 24-11 (Floor area and lot coverage), 24-36 (Rear yard), 24-522 ((Height and setback), and 24-552 (Rear yard setback). R8 district.

PREMISES AFFECTED – 411-431 East 69th Street, block bounded by East 69th and East 70th Streets and York and First Avenues, Block 1464, Lots 8, 14, 15, 16 p/o 21, Borough of Manhattan.

COMMUNITY BOARD #8M

195-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Aron Bistritzky, owner.

SUBJECT – Application July 16, 2008 – 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); less than the required rear yard (§23-47) and less than the required side yard (§23-461) in an R-2 zoning district.

PREMISES AFFECTED – 1350 East 27th Street, west side of East 27th Street, between Avenue N and Avenue M, Block 7662, Lot 72, Borough of Brooklyn.

COMMUNITY BOARD #14BK

196-08-BZ

APPLICANT – DID Architects, for 53-10 Associates, LLC, owner.

SUBJECT – Application July 21, 2008 – Special Permit (§§11-411 & 73-03) the reinstatement of a Board of Standards and Appeals variance, originally granted under calendar number 346-47-BZ, to permit the continued operation of a public parking garage. The lot is located in a C6-2 zoning district within the Clinton Special District Area A Preservation area.

PREMISES AFFECTED – 792 Tenth Avenue, a/k/a 455 West 53rd Street, north east corner of Tenth Avenue and West 53rd Street, Block 1063, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #4M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 23, 2008
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

709-55-BZIII

APPLICANT – Walter T. Gorman, P.E., for L M T Realty Company, owner; Exxon Mobil Corporation, lessee.

SUBJECT – Application May 27, 2008 – Extension of Time to obtain a Certificate of Occupancy, in a C1-2/R4 zoning district, for a gasoline service station (Mobil) which expired on January 9, 2003; waiver of the rules and an Amendment to legalize existing condition contrary to previous approved plans.

PREMISES AFFECTED – 2000 Rockaway Parkway, northwest corner of Seaview Avenue, Block 8299, Lot 68, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Patrick Gorman.

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, this is an application for a waiver of the Rules of Practice and Procedure, an extension of time to obtain a certificate of occupancy for a gasoline service station, and an amendment to legalize existing conditions that deviate from the previously approved plans; and

WHEREAS, a public hearing was held on this application on June 24, 2008 after due notice by publication in *The City Record*, with continued hearings on July 29, 2008 and September 9, 2008, and then to decision on September 23, 2008; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez; and

WHEREAS, the site is located at the northwest intersection of Rockaway Parkway and Seaview Avenue, within a C1-2 (R4) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 16, 1956 when, under the subject calendar number, the Board granted a variance to permit the premises to be occupied by a gasoline service station with accessory uses; and

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

WHEREAS, most recently, the grant was extended on January 9, 2001 for a term of ten years from the expiration of the prior grant, to expire on February 2, 2010, with a condition that a certificate of occupancy be obtained by January 9, 2003; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained by the stipulated date due to administrative oversight during the merger of the corporate owner; and

WHEREAS, the applicant therefore seeks an extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant also seeks to legalize site conditions that fail to conform to the previously approved plans, to reflect: (i) the location of an above ground lube oil tank in the northwest corner, (ii) the enlargement of the two curb cuts located on the northwestern side of Rockaway Parkway, (iii) the modification of the location of the curb cuts on Seaview Avenue and (iv) the use of a restroom as storage space; and

WHEREAS, at hearing the Board questioned the necessity of providing five curb cuts at the site; and

WHEREAS, in response, the applicant submitted revised plans reflecting the removal of the curb cut located on the southwestern side of Seaview Avenue, and the curb cut located at the intersection of Rockaway Parkway and Seaview Avenue; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of time to obtain a certificate of occupancy and the amendment to the approved plans 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 October 16, 1956, so that as amended this portion of the resolution shall read: “to permit a six-month extension of time to obtain a certificate of occupancy, to expire on March 23, 2009, and to legalize existing conditions that do not comply with the previous approved plans; *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 August 25, 2008”–(5) sheets; and *on further condition*:

THAT a certificate of occupancy shall be obtained by March 23, 2009;

THAT all signage shall comply with C1-2 zoning district regulations;

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

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

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

MINUTES

relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 310066781)

Adopted by the Board of Standards and Appeals September 23, 2008.

681-68-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Sharon Cohen, owner.

SUBJECT – Application June 4, 2008 – Amendment to a previously granted Variance (§72-21) for the change of use on the first floor of an existing one story building from Offices (UG6) and Air-Freight Storage (UG16) to Retail Stores (UG6), in an R3-1 zoning district, with accessory storage in the cellar and accessory parking for patrons to remain.

PREMISES AFFECTED –137-42 Guy Brewer Boulevard, northwest corner of 140th Avenue and Guy Brewer Boulevard, Block 12309, Lot 17, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Sandy Anagnostou.

For Opposition: Ella Smith and Joshua T. Wojehocski.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for continued hearing.

705-68-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Lanide Realty Corporation, owner; City Auto Corporation, lessee.

SUBJECT – Application March 27, 2008 – Extension of Term/waiver for a (UG8) parking lot in an R4-1 zoning district which expired on April 27, 2007.

PREMISES AFFECTED – 88-14/22 182nd Street, 128’ south of the intersection of Hillside Avenue and 182nd Street, Block 9917, Lots 7, 11, 143, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Todd Dole.

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 October 28, 2008, at 10 A.M., for decision, hearing closed.

389-85-BZ

APPLICANT – Walter T. Gorman, P.E., P.C., for Exxon Mobil Corporation, owner; Mobil On The Run, lessee.

SUBJECT – Application June 13, 2008 – Extension of Time to Obtain a Certificate of Occupancy for a UG16 Automotive Service Station (Mobil), in a C2-3/R7-1 zoning district, which expired on October 26, 2000 and an Amendment to legalize the conversion of the service bays to

a convenience store.

PREMISES AFFECTED – 2090 Bronxdale Avenue, bounded by Brady Avenue, White Plains Road, Bronx Park East and Bronxdale Avenue, Block 4283, Lot 1, Borough of Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Patrick Gorman.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for continued hearing.

222-90-BZ

APPLICANT – Cozen O’Connor by Barbara Hair, Esq., for 80-02 Fee Owner LLC, owner; Jack LaLanne Fitness Centers d/b/a Bally Total Fitness; lessee.

SUBJECT – Application August 7, 2008 – Extension of Term/waiver for the continued operation of a previously granted PCE (Bally Total Fitness), in a C4-4 zoning district, which expired on August 13, 2006 and an Extension of Time to obtain a Certificate of Occupancy which expired on September 23, 1998.

PREMISES AFFECTED – 80-02 Kew Gardens Road, west side of block front at Union Turnpike, Block 3348, Lot 37, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Barbara Hair.

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 October 7, 2008, at 10 A.M., for decision, hearing closed.

68-94-BZ

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

SUBJECT – Application August 14, 2008 – Extension of Time to obtain a Certificate of Occupancy for a previously granted special permit for the operation of a PCE (Bally Total Fitness) on the first and second floors of the Co-Op City Bay Plaza shopping center which expired on March 12, 2008. The premise is located in a C4-3 zoning district.

PREMISES AFFECTED – 2100 Bartow Avenue, southside of Baychester Avenue, Block 5141, Lot 810, Borough of Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Barbara Hair.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

MINUTES

ACTION OF THE BOARD – Laid over to October 7, 2008, at 10 A.M., for decision, hearing closed.

24-96-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Leonard Franzblau, owner.

SUBJECT – Application January 23, 2008 – Application filed pursuant to §§ 11-411 & 11-413 to extend the term of a variance, which expired on October 7, 2007, permitting commercial use in an R7-2 residential zoning district and non-compliance regarding lot coverage and rear yard requirements, and to amend the variance to permit a change in use from a retail store (use group 6) to an eating and drinking establishment (use group 6).

PREMISES AFFECTED – 213 Madison Street, North side of Madison Street between Jefferson Street and Essex Street, Block 271, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Todd Dole.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for continued hearing.

340-03-BZ

APPLICANT – Davidoff Malito & Hutcher, LLP, by Howard S. Weiss, Esq., for 408-410 Greenwich Street LLC.

SUBJECT – Application February 20, 2008 – Reopening for an Amendment to allow in a mixed use building the change of the use on the fifth floor from commercial use (UG6) to residential use (UG2).

PREMISES AFFECTED – 408 Greenwich Street, a/k/a 22-24 Hubert Street, northwest corner of Hubert and Greenwich Street, Block 217, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Laid over to October 7, 2008, at 10 A.M., for an adjourned hearing.

APPEALS CALENDAR

151-08-BZY

APPLICANT – Law Office of Howard Goldman, for 5-15 West 125th Street, lessee Harlem Community Development Corp., owner.

SUBJECT – Application May 29, 2008 – Extension of time to complete construction (11-331) under the prior zoning district regulations C4-4. C4-4A zoning district.

PREMISES AFFECTED – 5-15 West 125th Street, between Fifth Avenue and Malcom X Boulevard, Block 1723, Lots 23, 31, 45, 46, 144, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, September 23, 2008.

168-07-A

APPLICANT – Law Office of Fredrick A. Becker, for 1479 Rosedale, LLC, owner.

SUBJECT – Application June 18, 2007 – Appeal seeking a determination that the owner of the premises has acquired a common law vested right to continue the development commenced under the prior R6 Zoning District.

PREMISES AFFECTED – 1479 Rosedale Avenue, Rosedale Avenue between Mansion Street and Cross Bronx Expressway, Block 3895, Lot 58, Borough of Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Lyra Altman and Joe Quintessenza.

For Administration: Lisa Orrantia, Department of Buildings.

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 November 18, 2008, at 10 A.M., for decision, hearing closed.

152-08-A

APPLICANT – Quinn McCabe LLP, for 23 High-Line LLC, c/o Alf Naman, owners.

SUBJECT – Application May 30, 2008 – Appeals seeking to vacate a Stop Work Order issued by the Department of Buildings for failure to obtain the authorization of the adjacent property owner. C6-3A, Special District WCH.

PREMISES AFFECTED – 515 W 23rd Street, north side of West 23rd Street, between 10th and 11th Avenues, Block 695, Lot 27, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Christopher McCabe, Paul Selver, Joseph Chiarelli, Stephen Desimone.

For Opposition: Charles Williams.

For Administration: Lauren Esposito and Lisa Orrantia, Department of Buildings.

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 October 8, 2008, at 10 A.M., for continued hearing.

MINUTES

177-08-A

APPLICANT – Quinn McCabe LLP, for 23 High-Line LLC, c/o Alf Naman, owners.

SUBJECT – Application July 7, 2008 – Appeals seeking to vacate a Partial Stop Work Order issued by the Department of Buildings for failure to obtain the authorization of the adjacent property owner. C6-3A, Special District WCH.

PREMISES AFFECTED – 515 W 23rd Street, north side of West 23rd Street, between 10th and 11th Avenues, Block 695, Lot 27, Borough of Manhattan.

COMMUNITY BOARD #4M

For Applicant: Christopher McCabe, Paul Selver, Joseph Chiarelli, Stephen Desimone.

For Opposition: Charles Williams.

For Administration: Lauren Esposito and Lisa Orrantia, Department of Buildings.

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 October 8, 2008, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING

TUESDAY AFTERNOON, SEPTEMBER 23, 2008

1:30 P.M.

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

ZONING CALENDAR

238-07-BZ

CEQR #08-BSA-028Q

APPLICANT – Law Offices of Howard Goldman, for OCA Long Island City, LLC, c/o O'Connor Capital Partners, owners; OCA Long Island City, LLC, lessees.

SUBJECT – Application October 23, 2007 – Variance (§72-21) to allow a 13-story residential building (UG 2) contrary to regulations for FAR (§117-21 & §23-145), lot coverage (§117-21 & §23-145), minimum distance between windows (§117-21 & §23-711(b)) and height and setback (§117-21, §23-633 & §23-663). Student dormitory (UG 3) and faculty housing (UG 2) for CUNY Graduate Center is also proposed contrary to use regulations (§42-00). M1-4/R6A (LIC) and M1-4 districts.

PREMISES AFFECTED – 5-11 47th Avenue, easterly half

of Block 28 on the east side of Fifth Street between 46th Road and 47th Avenue, 135-180' west of Vernon Boulevard, Block 28, Lots 13, 15, 17, 18, 21 and 38, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Howard Goldman.

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 Queens Borough Commissioner, dated May 6, 2008, acting on Department of Buildings Application No. 402661945, reads, in pertinent part:

1. Proposed College Dormitory use (UG 3), residential use (UG 2), and non-profit community facility without sleeping accommodation (UG 4) in M1-4 district are contrary to ZR § 42-00;
2. Proposed commercial and residential FAR in lot portion of M1-4/R6A (LIC) district exceeds maximum permitted and is contrary to ZR § 117-21 and ZR § 23-145;
3. Proposed building lot coverage in lot portion of M1-4/R6A exceeds maximum permitted and is contrary to ZR § 117-21 and § 23-145;
4. Proposed building setback above the maximum base height in lot portion of M1-4/R6A (LIC) district is less than the minimum 15'-0" required and is contrary to ZR § 117-21 and § 23-633.
5. Proposed building height in lot portion of M1-4/R6A (LIC) district exceeds maximum permitted 70'-0" and is contrary to ZR § 117-21 and § 23-633.
6. Rear Setback in lot portion of M1-4/R6A (LIC) district is not provided and is contrary to ZR §117-21 and § 23-663.
7. Minimum distance required between building segments for window to window, window to wall and wall to wall are not adequately provided and contrary to ZR §117-21 & 23-711 (b).
8. Proposed wide outer court in M1-4 district is contrary to ZR § 24-632"; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an M1-4 district and partially within an M1-4/R6A district within the Special Long Island City Mixed-Use District, the proposed construction of a twelve-story mixed-use residential / commercial retail building and a six-story student dormitory and faculty housing building, connected by a cellar-level accessory parking garage, that does not comply with zoning

MINUTES

parameters for use, FAR, lot coverage, building height, minimum distance between building segments, court, front setback, and rear yard setback contrary to ZR §§ 42-00, 117-21, 23-145, 24-632, 23-633, 23-663 and 23-711; and

WHEREAS, this application is brought on behalf of OCA Long Island City, LLC. which proposes to develop a market-rate residential building with ground floor commercial uses and a City University of New York (“CUNY”) Graduate Center student and faculty residence on the subject site, and

WHEREAS, a public hearing was held on this application on April 8, 2008, after due notice by publication in the *City Record*, with continued hearings on May 20, 2008, July 1, 2008 and August 19, 2008, and then to decision on September 23, 2008; and

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

WHEREAS, Community Board 2 (Queens) recommends approval of this application subject to the following conditions; that: (1) a deed restriction limit the population of the proposed CUNY Graduate Center residence to CUNY graduate students and faculty; (2) the Queens Council on the Arts increase its outreach to Long Island City-based artists and residents; (3) the proposed garden courtyard be open to the public; (4) 20 percent of the residential dwelling units be set aside for affordable housing; (5) brownfield tax credits be directed to a local library or other community use, and (6) CUNY establish a mentoring relationship with a local school; and

WHEREAS, the Queens Borough President submitted a letter in support and a representative testified at hearing in support of the subject application; and

WHEREAS, Council Member Eric Gioia submitted a letter in support of the subject application; and

WHEREAS, the Co-Chair of the Doctoral Students Council of the CUNY Graduate Center testified in support of the subject application; and

WHEREAS, a number of area residents testified in support and in opposition to the application; and

WHEREAS, additionally, a group of neighbors represented by counsel testified at hearing and made submissions into the record in opposition to the application (the “Opposition”); the arguments made by the Opposition related to the required findings for a variance, and are addressed below; and

WHEREAS, the subject site is a through-block site bounded by Fifth Street to the west, 46th Road to the north, and 47th Avenue on the south; and

WHEREAS, subject site consists of Tax Lots 12 (a/k/a Tax Lot 13), 15, 17, 18, 21, and 38, which comprise one zoning lot (the “Zoning Lot”); and

WHEREAS, the site has a total lot area of 66,838 sq.

ft., with a lot area of 20,000 sq. ft. located within an M1-4/R6A (LIC) zoning district on Fifth Street and a lot area of approximately 46,838 sq. ft. located within an M1-4 district on the eastern portion of the subject site; and

WHEREAS, the subject site is developed with a mix of one-story to three-story vacant industrial buildings which are proposed to be demolished; and

WHEREAS, the applicant proposes: (i) a twelve-story mixed-use building containing residential use (U.G. 2), community facility (U.G.4), and commercial retail use (U.G. 6) (hereinafter “the mixed-use building”); and (ii) a six-story building containing living quarters for CUNY faculty (U.G. 2) and graduate students (U.G. 3); community facility use (U.G. 4) and (iii) 91 spaces of accessory parking (hereinafter “the CUNY building”); and

WHEREAS, the mixed-use building and the CUNY building are proposed to be connected at the cellar level where the accessory parking would be located; and

WHEREAS, the proposed project will have a total floor area of 349,400 sq. ft. (FAR of 5.23) over the entire zoning lot, comprising 169,185 sq. ft. of residential (U.G. 2) floor area, 172,815 sq. ft. of community facility floor area (U.G. 3 and U.G. 4) and 7,400 sq. ft. of commercial floor area (U.G. 6); and

WHEREAS, the mixed-use building is almost entirely within the M1-4/R6A portion of the Zoning Lot (on part of Lot 21); the CUNY building is entirely within the M1-4 portion of the Zoning Lot (on Lots 12, 15, 17, 18, part of Lot 21, and Lot 38), other than a small portion of the shared accessory garage; and

WHEREAS, the mixed-use building is proposed to have a total floor area of 163,920 sq. ft., a residential floor area of 151,520 sq. ft., community facility floor area of 5,000 sq. ft., and commercial retail floor area of 7,400 sq. ft.; and

WHEREAS, the mixed-use building is proposed to have 200 dwelling units, ground floor retail space, office, exhibition and program space to be occupied by the Queens Council for the Arts, a nonprofit organization, and a small portion of the below-grade parking garage floor space; and

WHEREAS, the CUNY building is proposed to contain 15,666 sq. ft. of Use Group 2 faculty housing (21 units) and 167,815 sq. ft. of Use Group 3 student dormitory suites (228 units housing 380 students) and 91 unattended accessory parking spaces located partially below grade (to be available to residents of both the mixed-use building and the CUNY building); and

WHEREAS, the proposed mixed-use building will have an FAR of 8.2 within the M1-4/R6A district (3.0 is the maximum permitted in an M1-4/R6A zoning district); a front setback of 10’-0” above the maximum base height (a 15’-0” setback is the minimum required on a narrow street in an M1-4/R6A zoning district); a total height of 129’-8” (70’-0” is the maximum permitted in an M1-4/R6A zone); a rear setback of 15’-0” is provided at 109’-0” in height (10’-0” is required in an M1-4/R6A zone above the maximum base height of 60 ft.), a minimum distance between windows of 50’-0” and between windows and a wall of 35’-0” (a minimum window-to window distance of 60’-0” and a minimum

1 The Board notes that the Community Board’s conditions fall outside its jurisdiction, but that the applicant has agreed to open the court to the public.

MINUTES

window-to-wall distance of 40'-0" are required); and a corner lot coverage of 84.5 percent (80 percent is the maximum permitted lot coverage); and

WHEREAS, the CUNY building will have the following parameters: an outer court on Lot 18 measuring 50'-0" in width and 80'-0" in depth (a width of 80'-0" would be required in an M1-4 zoning district); and

WHEREAS, graduate student housing and faculty housing are not permitted uses in the M1-4 district; and

WHEREAS, thus the subject application was filed to permit the proposed residential and community facility uses; and

WHEREAS, the applicant initially proposed a mixed-use building with thirteen-stories and a total floor area of 171,474 sq. ft., a residential floor area of 158,574 sq. ft., a community facility floor area of 4,500 sq. ft. and a commercial floor area of 7,500 sq. ft., and

WHEREAS, the original application has been slightly modified with respect to the number of CUNY faculty units and graduate student units and community facility floor area; and

WHEREAS, the applicant also modified the proposal to eliminate 7,054 sq. ft of residential floor area, and reduced the height of the building from 140'-0" to 129'-8", thereby reducing the variances requested for FAR and maximum building height; and

ZR § 72-21 (a) – Unique Physical Conditions Finding

WHEREAS, under § 72-21 (a) of the Zoning Resolution, the Board must find that there are unique physical conditions inherent to the Zoning Lot which create practical difficulties or unnecessary hardship in strictly complying with the zoning requirements (the "(a) finding"); and

WHEREAS, the applicant states that the site's unique degree of contamination creates an unnecessary hardship in complying with the zoning requirements for commercial and residential FAR, lot coverage, height, front and rear setback, and minimum distance between buildings; and

WHEREAS, the applicant states that the site has a long industrial history and site assessment activities have confirmed the presence of heavy metals, petroleum, chlorinated solvents and hazardous wastes in soils and groundwater; and

WHEREAS, the applicant represents that extensive soil sampling of site has identified the presence of arsenic, mercury, cadmium, chromium, selenium, acetone and cyanide and that benzene, toluene and ethylbenzene have been detected in groundwater at upgradient and downgradient locations at concentrations significantly above New York State Class GA groundwater standards; and

WHEREAS, the applicant further represents that soil testing has also revealed the presence of naphthalene at concentrations as high as 160 mg. per kg. and chlorinated solvents at concentrations exceeding Class GA groundwater standards; and

WHEREAS, at hearing, the applicant stated that PCBs (polychlorinated biphenyls) have also been identified on the site, probably resulting from the dumping of electrical transformers; and

WHEREAS, a submission by the applicant states that the

parcels were developed prior to 1898 for use by an ink factory and a varnish works; previous site occupants also included a dry cleaning and spotting facility, a metal caster and dyer; and

WHEREAS, the applicant represents that these identified occupants were likely to have used industrial solvents, lubricating and cutting oils, plating bath solutions, paint, painting products and dye products as part of their operations; and

WHEREAS, the applicant further represents that Tax Lot 21 and Tax Lot 38 are subject to a federal Environmental Protection Agency (EPA) Administrative Order requiring hazardous material remediation, including encapsulation of contaminated soil containing lead, arsenic and selenium, and mandates that all renovations meet certain standards to ensure that the integrity of the encapsulation is maintained; and

WHEREAS, the applicant states that the requirements of the Administrative Order are incorporated into a deed restriction which is the only such deed restriction identified in Long Island City; and

WHEREAS, the applicant states that, in order to remove the deed restriction, the EPA requires that Lots 21 and 38 be placed in the New York State Brownfield Cleanup Program administered by the New York State Department of Environmental Conservation ("DEC") to assist in the cleanup of heavily contaminated sites; and

WHEREAS, the applicant represents that a Brownfield Cleanup application for Lots 21 and 38 was filed in 2006 and that DEC has accepted the applicant's remedial investigation work plan ("RIWP") defining the nature and extent of the site contamination, the contaminant source areas, and an assessment of the contaminant disposal and transport; and

WHEREAS, based on the RIWP, the applicant began the remedial investigation process which has been substantially completed; and

WHEREAS, the applicant states that, based on the findings of its investigation, a remedial work plan (RWP) will be developed and implemented that will be designed to achieve a "Track 1 – Unrestricted Use" standard for the cleanup of the property, allowing for residential use without any land use restrictions; and

WHEREAS, upon completion of remediation, and its verification and approval by DEC, DEC will issue a certificate of completion ("COC") certifying that the site may be safely developed and permitting removal of the deed restriction; and

WHEREAS, the applicant represents that the issuance of a COC does not however guarantee approval of BCP tax credits; and

WHEREAS, according to a remediation plan submitted by the applicant, a Track 1 cleanup the subject site would require excavation to a depth of approximately 15 feet and the removal of approximately 10,000 cubic yards of soil; approximately 75 percent (7,500 cubic yards) requires disposal as petroleum-impacted soil and 25 percent (2,500 cubic yards) requires disposal as hazardous waste, as well as another 1,000 cubic yards of building rubble which encapsulates hazardous waste which requires removal as hazardous waste; and

WHEREAS, the applicant states that the remediation plan also includes the installation of a vapor barrier below

MINUTES

grade to prevent the migration of soil vapor onto the site and into the proposed buildings, and the installation of steel sheeting in conjunction with a dewatering system around the perimeter of the site; and

WHEREAS, the applicant further states that the excavation of the site is additionally complicated by the DEC requirement that the applicant characterize the entire subsurface of the property and re-characterize the soils prior to disposal, by the need to avoid breaching a clay layer 15 feet below grade which protects the aquifer from being contaminated, as well as by the necessary development of an on-site dewatering facility; and

WHEREAS, the applicant represents that the need to protect the surrounding community from the release of hazardous materials during excavation, and the difficulty in disposing of PCBs also complicates the site's remediation and adds to its expense; and

WHEREAS, the applicant states that excavation to a depth of 15 feet is required on the Brownfield portion of the site to meet DEC's cleanup requirements and that excavation of the entire site including the non-Brownfield portion (Tax Lots 12, 15, 17 and 18) is necessary to protect the health of residents and the surrounding community; and

WHEREAS, the applicant represents that enclosing the entire site within steel sheeting prevents the off-site migration of contaminants, which is of particular concern due to the potential effect of recently installed sheeting along the East River to Anable Basin, and the proposed sheeting along the eastern boundary of the BCP site, which might otherwise combine to shift the flow of groundwater toward the southeast, thereby discharging contaminants to the untreated non-BCP portion of the site; and

WHEREAS, the applicant states that cleanup of the entire site is also necessary because procuring financing for redevelopment projects in the current financial climate is becoming more difficult and a lender may be reluctant to finance a project with a separate and inconsistent cleanup on the site, particularly if residual material is allowed to remain on a non-Brownfield area, and

WHEREAS, the Opposition argues that the applicant has failed to prove that the degree of environmental contamination on Lots 21 and 38 is unique in Long Island City, where contaminated conditions are "a common occurrence" given the long history of industrial use in the area; and

WHEREAS, the Opposition states that an EPA map of zip code area 11101 indicates contamination of 545 sites within Long Island City and Astoria, and that the prevalence of these conditions defies a finding of uniqueness; and

WHEREAS, the Board notes that the Opposition has proffered no evidence, to show that other sites within the surrounding area exhibit a similar degree of contamination, or that their cleanup would have to meet similar standards of remediation; and

WHEREAS, the Opposition also argues that the proposed Track 1 level cleanup, estimated to cost approximately \$10.2 million, is unnecessary and that a "Track 2" level Brownfield cleanup, which allows contamination to remain on the site, could be applied instead at far less expense;

and

WHEREAS, the applicant states that it cannot remediate the site less expensively because the decision as to the appropriate level of site remediation is determined by DEC, and the agency is increasingly requiring cleanups to meet Track 1 objectives unless doing so is physically or economically infeasible; and

WHEREAS, the applicant further states that the requirements for the cleanup proposed by the Opposition can be just as expensive to meet as the proposed cleanup and would result in recorded environmental easement and land use restrictions, including post-remediation soil management, monitoring and reporting requirements, that are not required for Track 1 cleanups; and

WHEREAS, the applicant represents that these sustained land use restrictions could therefore give the appearance of a continuing environmental problem which would not be viable for lenders or for CUNY; and

WHEREAS, the Board agrees that the site cleanup proposed by the applicant is necessary and rational; and

WHEREAS, the Opposition additionally argues that costly excavation and remediation would not be necessary if the applicant had chosen instead to develop the site with a slab-on-grade foundation, as was the case with several other projects recently developed as-of-right on contaminated sites in the surrounding area; and

WHEREAS, the applicant states that new developments in the surrounding area cited by the Opposition were able to be developed with a slab on grade foundation because the extraordinary conditions requiring removal of subsurface soils or groundwater treatment were absent, and their excavation and full-site remediation were not necessitated by an EPA deed restriction, as is the case with the subject site; and

WHEREAS, because the cited projects were not burdened by similar remediation costs, variances to height and bulk were not needed to ensure their financial feasibility; and

WHEREAS, the Opposition also contends that the applicant has not provided sufficient information about the contamination of Lots 12, 15, 17 and 18 and the soil in the surrounding neighborhood to establish that the property is singularly burdened by its environmental conditions; and

WHEREAS, the Board notes that Lots 12, 15, 17 and 18 are among those lots proposed to be occupied by CUNY, a nonprofit educational institution, and a showing of physical hardship or practical difficulty is not necessary; and

WHEREAS, the CUNY Graduate Center proposes to provide 228 graduate student units and 21 faculty housing units within the CUNY building, which it will own and operate; and

WHEREAS, the applicant represents that the waivers to use and court are sought to enable the CUNY Graduate Center to meet its programmatic needs; and

WHEREAS, the Board notes at the outset that the CUNY Graduate Center, as a non-profit educational institution, may use its programmatic needs as a basis for the requested waivers; and

WHEREAS, under well-established precedents of the courts and this Board, applications for variances that are needed in order meet the programmatic needs of educational

MINUTES

institutions, are entitled to significant deference by zoning boards (see, e.g., Cornell University v. Bagnardi, 68 N.Y.2d 583 (1986); and

WHEREAS, the applicant represents that providing housing to its graduate students and faculty is a significant programmatic need of CUNY and that, unlike New York's private universities, CUNY has no graduate student or faculty housing; and

WHEREAS, at hearing, the President of the CUNY Graduate Center testified that graduate students enrolled in the CUNY Graduate Center serve as part-time instructors throughout the CUNY system under academic fellowships with stipends of \$18,000 per year; and

WHEREAS, the applicant submitted a study of the student housing market in New York City which found that the rents of private housing units were 21 percent to 54 percent higher than the rents at university-sponsored facilities; and

WHEREAS, the study noted that 709 of the 3,393 full-time students then enrolled in the CUNY Graduate Center came from outside New York City and would therefore be likely to need university-sponsored housing; and

WHEREAS, at hearing, the Executive Officer of the CUNY Graduate Program for Speech and Language testified that the lack of CUNY-sponsored housing had hampered her ability to recruit high-achieving students to her program; and

WHEREAS, the Co-Chair of the Doctoral Students Council of the CUNY Graduate Center testified at hearing as to the hardship imposed by rental costs on the 4,300 students now enrolled; and

WHEREAS, the applicant states that the project site was selected by CUNY for its dormitory and faculty housing because of its accessibility to the Graduate Center which is located only one subway stop away from the project site; and

WHEREAS, the Board finds that the applicant has established the programmatic need of the CUNY Graduate Center for the development of the CUNY building and has demonstrated that the extreme contamination and costly remediation of the portion of the site within the M1-4/R6A district presents an unnecessary hardship and practical difficulty to its development in compliance with the applicable zoning regulation; and

ZR § 72-21 (b) – Financial Return Finding

WHEREAS, under ZR § 72-21 (b), the Board must establish that the physical conditions of the site preclude any reasonable possibility that its development in strict conformity with the zoning requirements will yield a reasonable return, and that the grant of a variance is therefore necessary to realize a reasonable return (the “(b) finding”), unless the applicant is a nonprofit organization, in which case the (b) finding is not required for the granting of a variance; and

WHEREAS, since the CUNY Graduate Center is a non-profit institution and the waivers to permit dormitory and faculty units are associated with its community facility use and are sought 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 requested variance, and therefore the financial analysis is adjusted accordingly; and

WHEREAS, an analysis which evaluated the financial

feasibility of a conforming development of the entire site was provided by the applicant; and

WHEREAS, the applicant states that the overall environmental cleanup cost for the project site is estimated at \$10.2 million, and that the requested variances are necessary in order to achieve a reasonable economic return from its development; and

WHEREAS, the applicant initially submitted a financial analysis examining the feasibility of: (i) a development scenario that includes a conforming residential use on the M1-4/R6A portion of the site and a conforming industrial development on the portion of the site within the M1-4 zoning district; (ii) a lesser alternative with an as-of-right mixed-use development on the M1-4/R6A portion of the site and the proposed CUNY development within the M1-4 portion; (iii) a lesser alternative with the proposed residential square footage, an increased retail component and a smaller CUNY building; as well as (iv) the original proposed project; the analysis demonstrated that only the proposed project achieved a reasonable rate of return; and

WHEREAS, at hearing, the Board raised concerns as to whether the market rate portion of the development was subsidizing the CUNY facility, and whether this subsidy was the cause for the requested variance; and

WHEREAS, a submission by the applicant explained that CUNY is paying fair market value for its portion of the subject site and is assuming the cost of construction and operation of its facility; and

WHEREAS, the applicant stated that a letter of intent between the developer and CUNY initially set the total of land value and cleanup costs for the CUNY development at approximately \$20 million, apportioned between the fair market value of CUNY's share of the site (approximately \$13.9 million) and the remediation costs of CUNY's share of the site (\$6.7 million); and

WHEREAS, during the course of the hearing, the applicant subsequently lowered the CUNY land value to \$18.8 million to reflect the reduction of building net floor area by 1,550 sq. ft., and the reduced value attributable to dwelling units being developed below-grade; and

WHEREAS, at hearing the Board asked the applicant to examine lesser variance alternatives which request less additional floor area for the mixed-use building, and to explain the basis for the projected construction financing rate used in the financial analysis; and

WHEREAS, in response to the Board's request, the applicant examined three alternatives; (i) a fifty percent reduction in the 13th floor; (ii) a 12-story mixed-use building; and (iii) an 11-story mixed-use building and lowered the construction financing rate to conform to recent interest rate reductions; and

WHEREAS, the revised financial analysis showed that none of these three scenarios yielded a reasonable rate of return, while the proposed project provided a marginally positive rate of return; and

WHEREAS, the Opposition contends that the cost of remediation could be offset by the available Brownfield Cleanup tax credits, and that the financial analysis is

MINUTES

undermined by its failure to account for the potential offset; and

WHEREAS, the applicant represents that the receipt of Brownfield Cleanup tax credits granted by the New York State Department of Taxation and Finance is speculative; and

WHEREAS, the applicant states that, under the regulations in effect at the time of its application, the value of the tax credit could range from 12 percent to 14 percent of (i) the costs of investigation, remediation, demolition, excavation, grading and temporary fencing, and (ii) tangible property costs associated with the development of the site, including buildings and structural components and that tax credits received under the Brownfield program would be subject to federal income taxes at an effective rate of 50 percent, thereby reducing the projected the after-tax value of the maximum Brownfield credit available to subsidize the remediation of the project site to \$3 million; and

WHEREAS, at hearing, the Board raised a concern that the omission of the potential Brownfield tax credits from the financial analysis could inflate the requested variance; and

WHEREAS, in response, the applicant revised the financial analysis to reflect the reduction in floor area and the effect of the Brownfield tax credit; the revised analysis examines the mixed-use project's rate of return with and without the tax credits, as well as the effect of the tax credits on an as-of-right development scenario; and

WHEREAS, the financial analysis demonstrates that, even with the Brownfield tax credit, an as-of-right project could not achieve a reasonable financial return while the project at the reduced height but with the tax credit achieved a modest financial return; and

WHEREAS, the applicant has modified the proposed project to reflect the projected receipt of approximately \$3 million in after-tax Brownfield tax credits by reducing the height of the mixed-use building by one floor, with a consequential overall reduction in residential floor area of 7,054 sq. ft., which the applicant represents is roughly equivalent to the projected value of the potential tax credits; and

WHEREAS, the Opposition asserts that the financial analysis is flawed because it failed to consider alternative conforming scenarios, such as a commercial/ retail use of the 95,880 sq. ft. of floor area within the M1-4 portion of the site; and

WHEREAS, the Opposition further argues that the proposed excavation and remediation would be unnecessary if the site were instead developed with conforming commercial/ retail uses; and

WHEREAS, a response by the applicant indicates that the scenario proposed by the Opposition would be infeasible because: (i) it would require two levels but could not provide loading, parking or servicing on site; (ii) the proposed \$40 per sq. foot rent could not be generated for space on a second level; (iii) there is no proven market in that location for the proposed volume of retail space; (iv) the construction costs and operating costs of a retail project far exceed that of an industrial development, particularly

because typical retail leases require owners to provide heat and to pay the base year taxes; and

WHEREAS, the applicant submitted a pro forma of a single level retail project containing 54,000 sq. ft. of floor area over the project site at the same rents proposed by the Opposition, which demonstrated that using the higher levels of construction finishes, plumbing and demising walls required by such a project would render it financially infeasible; and

WHEREAS, the applicant also notes that the infeasibility of a conforming development can be inferred from the site's vacancy over a period of many years; and

WHEREAS, the Opposition also argues that the financial feasibility analysis is flawed because the applicant has not performed sufficient testing to establish the contamination of the site and to support the estimated cost of its cleanup; and

WHEREAS, the applicant represents that sufficient testing has been performed to establish the \$10.2 million estimate and, further, that any additional findings will only serve to increase the cost of remediation; and

WHEREAS, the Opposition also asked the applicant to explore certain design changes to the mixed-use building, specifically, the adoption of loft-style apartment layouts and multiple setbacks that it contends would create increase the square footage of penthouse units and enhance the unit values, consequently allowing a reduction in the building's height and bulk; and

WHEREAS, a submission by the applicant explains that the unit design for the mixed-use project was based on assessment of the current real estate market, and that the proposed design had been found to offer a higher financial return than a design with larger unit sizes and higher floor to floor heights; and

WHEREAS, the applicant further stated that the setbacks proposed by the Opposition had been incorporated into the project design and that the financial analysis before the Board reflected the increased resulting value; and

WHEREAS, the Board notes that the Opposition has presented no evidence supporting its contention that its alternate design would generate a higher return than the design proposed by the Applicant; and

WHEREAS, based upon its review of the applicant's financial analysis, 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

ZR § 72-21 (c) – Neighborhood Character Finding

WHEREAS, the applicant represents that the waivers of FAR, lot coverage, building height, minimum distance between building segments, front setback, and rear yard setback sought to permit the mixed-use building, and the waiver for use sought for the CUNY building, will not alter the essential neighborhood character, impair the use or development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, the applicant proposes an overall

MINUTES

development of the subject site with an FAR of 5.2 (347,400 sq. ft.), with an FAR of 8.2 proposed for the westerly portion of the site within the M1-4/ R6A district, and an FAR of 3.92 proposed for the easterly portion of the site within the M1-4 district; and

WHEREAS, the applicant represents that the proposed floor area is within the overall envelope for the site, which would permit an overall FAR of 5.45 (364,447 sq. ft.), based on the maximum FAR of 3.0 within the M1-4/R6A portion and the maximum FAR of 6.5 permitted for community facility uses within the M1-4 portion; and

WHEREAS, the Board notes that the proposed overall FAR of 5.2 is within the FAR contemplated by the zoning of the subject site; and

WHEREAS, the applicant further represents that the heights and massing of the proposed project are compatible with the scale of the development in the surrounding area, stating that the project massing places the bulk of the floor area on Fifth Street opposite a new park and open area and proximate to the high density buildings of the Queens West Development located to the west of the project site; and

WHEREAS, the applicant states that the Queens West development includes building heights of 44 stories, 39 stories and 32 stories and that later phases of the project include seven residential towers ranging from 200 to 400 feet in height; and

WHEREAS, the applicant states that additional projects at the Silvercup site and Anable Basin, three blocks to the southwest and northwest of the project site, respectively, are proposed at heights ranging from 31 to 48 stories; and

WHEREAS, the applicant further states that the proposed 12-story mixed-use building at approximately 130'-0" complies with relevant light and air requirements and is considerably shorter than the 20 to 50-story buildings which have approved to the south, west and north of the subject site; and

WHEREAS, the applicant notes that the westerly portion of the subject site comprising 20,000 sq. ft., is located within the Hunters Point Subdistrict rezoning area and was rezoned to permit mixed-use developments like the proposed project, and that the blocks to the south of the project site extending to Borden Avenue are mixed-use in character and were rezoned to permit residential and community facility use consistent with the proposed CUNY building; and

WHEREAS, the applicant states that the CUNY building complies with all the applicable height and setback regulations of the M1-4 zoning district and its six-story height conforms to the predominant midblock character of the surrounding area; and

WHEREAS, the Opposition asserts that the project is inconsistent with the intent of the Hunters Point rezoning to preserve the character and scale of the "uplands" Long Island City neighborhood and to differentiate that part of the community from the high-rise residential towers of the Queens West Waterfront Project; and

WHEREAS, the Opposition submitted a series of

computer-generated streetscapes demonstrating that the proposed development would be significantly out of scale with the surrounding community; and

WHEREAS, at hearing the applicant demonstrated with "before" and "after" montages that the images submitted by the Opposition had exaggerated the height of the proposed development by eliminating all tall existing buildings surrounding it and by distorting the perspectives; and

WHEREAS, the applicant submitted a map showing recent and proposed developments indicating that both the mixed-use building and the CUNY building are considerably shorter than other recent uplands developments proposed within two blocks to the north south and east; and

WHEREAS, the applicant further states and that the east-west view corridor will be maintained and extended, that setbacks are provided on all street frontages above the fifth floor and that each of the faculty units in the CUNY project will set back by five feet; and

WHEREAS, the applicant further states that the project has been designed to facilitate its integration within the surrounding community; and

WHEREAS, the applicant represents that a publicly accessible-interior garden of approximately 5,000 sq. ft. will be provided, as well as street trees surrounding the three frontages, and that the four project components have been architecturally coordinated to provide active street frontages; and

WHEREAS, the applicant states that represents that accessory parking is provided below-grade within the building to preserve active street frontages, and that the parking facility has been designed to permit ingress and egress from entrances along 46th Road to minimize traffic congestion along 5th Street and Vernon Boulevard; and

WHEREAS, the applicant further states that providing accessory parking reduces the demand for on-street parking spaces; and

WHEREAS, a shadow analysis of the proposed project indicates that incremental shadows would be cast by the mixed-use building on a new open space under construction to its west during morning hours beginning an hour and a half after sunrise; however, the surface will consist of artificial turf with a surrounding running track and will therefore not be light sensitive; and

WHEREAS, based upon the above, the Board finds that the subject variances, if granted will not alter the essential character of the surrounding neighborhood, impair the appropriate use and development of adjacent property or be detrimental to the public welfare; and

ZR § 72-21 (d) - Self Created Hardship Finding

WHEREAS, as pertains to the (d) finding under ZR § 72-21, the Board is required to find that the practical difficulties or unnecessary hardship burdening the site have not been created by the owner or by a predecessor in title; and

WHEREAS, the applicant states and the Board agrees, that the practical difficulties and unnecessary hardship associated with the environmental remediation of the project site have not been created by the applicant or a predecessor

MINUTES

in title; and

ZR § 72-21 (e) – Minimum Variance Finding

WHEREAS, as pertains to the (e) finding under ZR § 72-21, the Board is required to find that the variance sought is the minimum necessary to afford relief; and

WHEREAS, the applicant states that the requested the waivers of FAR, lot coverage, building height, front setback, and rear yard setback represent the minimum variance necessary to allow the mixed-use building to achieve a reasonable financial return, given its extensive environmental remediation costs, and to meet CUNY's programmatic needs; and

WHEREAS, the applicant originally proposed a project with a total floor area of 356,454 sq. ft., and a 13-story mixed-use building; the applicant modified the proposal to reduce the height of the mixed-use building by one floor to 12 stories and to reduce the total floor area of the project to 349,400 sq. ft., thereby offsetting the value of the potential receipt of the Brownfield tax credits; and

WHEREAS, the Board notes that the applicant also evaluated the economic feasibility of two lesser variance alternatives, which demonstrated that only the proposed project achieved a reasonable rate of return; and

WHEREAS, the Opposition has argued that a grant of use and bulk variances is unusual and excessive; and

WHEREAS, the Board finds that there is practical difficulty due to the unique conditions of the site which requires additional floor area to offset the remediation costs and other bulk waivers to accommodate the added bulk in a manner most compatible with the scale and bulk of the property and the surrounding area; and

WHEREAS, the Opposition contends that the minimum variance is unknown because testing on the site is incomplete and the ultimate remediation costs are therefore unknown; and

WHEREAS, as discussed above, the applicant represents and the Board finds that sufficient testing has been performed to establish the \$10.2 million estimate for the cost of site remediation and, further, that the financial analysis was adjusted to incorporated the potential receipt of the Brownfield tax credit; and

WHEREAS, Opposition argues that the proposed parking is unnecessary and increases the construction costs and proposes that it be removed to reduce the requested height and bulk variances; and

WHEREAS, the applicant states that because excavation of the site to a depth of 15 feet is necessary for its remediation, the development cost of the parking garage is low but that the elimination of its anticipated revenue would undermine the financial feasibility of the project, further, that providing on-site parking within the project will be an asset to the surrounding community as available on-street parking in the area is limited; and

WHEREAS, based upon its review of the record and its site visits, the Board finds that the applicant has provided sufficient evidence to support each of the findings required for the requested variances; and

WHEREAS, the project is classified as an Unlisted

action pursuant to Section 617.2 of 6 NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has identified and considered relevant areas of environmental concern about the project documented in the Final Environmental Assessment Statement (EAS) CEQR No. 08BSA28Q, dated August 2008; 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 New York City Department of Transportation ("DOT") reviewed the proposed project and issued a sign-off letter on August 13, 2008; and

WHEREAS, the New York City Landmarks Preservation Commission reviewed this project and confirmed that the project site does not contain any areas of historic/architectural or archaeological significance; therefore, no impacts on historic/architectural or archaeological resources are expected as a result from the proposed action; and

WHEREAS, the New York City Department of Environmental Protection ("DEP") Office of Environmental Planning and Assessment has evaluated the following submissions from the applicant: (1) an August 2008 Environmental Assessment Statement; (2) an October 2007 Phase I Environmental Site Assessment; (3) an April 2008 Phase II Subsurface Investigation Workplan; (4) a March 2007 Health and Safety Plan Report ("HASP"); (5) an August 2008 Remedial Investigation Report (Phase II sampling results); (6) a September 2008 Stationary Source Screening Analysis; and (7) a September 2008 Industrial Source Analysis; and

WHEREAS, the applicant has agreed to implement hazardous materials remediation pursuant to a Restrictive Declaration executed on September 19, 2008 and submitted for recording against the subject property on September 22, 2008; and

WHEREAS, a Remedial Action Plan ("RAP") and a Construction Health and Safety Plan Report ("CHASP") must be submitted to DEP for review and approval; and

WHEREAS, the RAP and the remedial work plan to be submitted to DEC will both include the installation of a below grade vapor barrier to prevent the migration of soil vapor onto the site; and

WHEREAS, DEP review and approval of the manufacturer's specifications and a sample of the vapor barrier material is required prior to its installation; and

WHEREAS, after approval of the RAP and CHASP, DEP will remit a Notice to Proceed to the Department of Buildings ("DOB"); and

WHEREAS, after implementation of the remediation, one or more Remedial Closure Report(s) certified by a professional engineer shall be submitted to DEP; subsequent

MINUTES

to its approval, DEP will forward Notice(s) of Satisfaction to DOB; and

WHEREAS, DEP also evaluated air quality analysis submissions to examine the potential stationary and mobile source air quality impacts of the proposed action; and

WHEREAS, a stationary source screening analysis for the heating, ventilating, and air conditioning equipment (HVAC) performed using CEQR Technical Manual methodology determined that the proposed project is not anticipated to result in potential significant impacts on adjacent receptors; and

WHEREAS, another screening analysis determined that the emission stack of the CUNY building must be located at least 160 feet from the façade of the mixed-use building to avoid any significant air quality impacts; and

WHEREAS, an industrial source impact assessment demonstrated that the air quality of the proposed project would not be adversely affected by surrounding industrial/manufacturing uses; and

WHEREAS, a stationary source screening analysis and mobile source screening analysis determined that the proposed project would not result in any significant noise impacts as a result of using the building mechanical systems at sensitive receptor locations; and

WHEREAS, based on the traffic study, the proposed project would not double traffic levels in passenger car equivalents; therefore the project is not expected to create significant adverse impacts from mobile source emissions; and

WHEREAS, the applicant will provide a minimum of 35 dBA window/wall attenuation to achieve an interior noise level of 45 dBA and use a dedicated HVAC system as an alternate means of ventilation in order to maintain a closed-window condition, therefore satisfying CEQR interior noise requirements and requirements of the Special Long Island City Mixed-use District; and

WHEREAS, the environmental assessment found that the mixed-use building would cast incremental shadows on a new open space under construction to its west during morning hours; however, since the park's surface will not be light-sensitive, such shadows are not considered to have a significant effect on the environment; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site partially within an M1-4 district and partially within an M1-4/R6A district within the Special Long Island City Mixed-

Use District, the proposed construction of a twelve-story mixed-use residential/commercial retail building and a six-story student dormitory building and faculty housing building connected by a cellar-level accessory parking garage that does not comply with zoning parameters for use, FAR, lot coverage, building height, minimum distance between building segments, court, front setback, and rear yard setback contrary to ZR §§ 42-00, 117-21, 23-145, 24-632, 23-633, 23-633 and 23-711; *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 September 17, 2008"- (19) sheets; and *on further condition*:

THAT the proposed Zoning Lot shall have a maximum FAR of 5.23,

THAT the building on within the M1-4/R6A portion of the zoning lot shall have the following parameters: a floor area of 163,920 sq. ft.; a front setback of 10'-0" above the maximum base height; a total height of 129'-8"; a rear setback of 15'-0" at a height of 109'-0"; a minimum distance between windows of 50'-0" and between windows and a wall of 35'-0"; and a corner lot coverage of 84.5 percent; and the building within the M1-4 portion of the Zoning Lot will have a floor area of 183,480 sq. ft. and an outer court measuring 50'-0" in width and 80'-0" in depth;

THAT a RAP and CHASP shall be submitted to DEP for review and approval;

THAT the applicant shall submit its Remedial Work Plan to DEP;

THAT the emission stack of the building within the M1-4 portion of the Zoning Lot shall be located at least 160 feet from the façade of the building within the M1-4/R6A portion of the zoning lot;

THAT a minimum of 35 dBA window/wall attenuation shall be provided;

THAT issuance of building permits shall be conditioned on DEP review and approval of the specifications and sample material of its proposed vapor barrier;

THAT the issuance of building permits shall be conditioned on the receipt of a DEP Notice to Proceed;

THAT issuance of building permits shall be conditioned on the issuance of a certificate of completion by DEC;

THAT issuance of a permanent certificate of occupancy shall be conditioned on the issuance by DEP of a Notice of Satisfaction;

THAT DEP review and approval is required prior to the approval by DOB of any changes to the BSA-approved site plan or building plans;

THAT construction will be substantially completed in accordance with the requirements of ZR § 72-23; and

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;

MINUTES

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, September 23, 2008.

245-07-BZ

CEQR #08-BSA-031K

APPLICANT – Law Offices of Howard Goldman, LLC, for Hawthorne Village, LLC, owner.

SUBJECT – Application October 30, 2007 – Variance (§72-21) to allow the residential conversion of an existing five-story industrial building. Proposed project will contain 147 dwelling units, ground floor retail space and 59 accessory parking spaces. Proposal is contrary to use regulations (§42-00). M1-2 district.

PREMISES AFFECTED – 220 Water Street, between Water and Bridge Streets, Block 41, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Chris Wright.

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 October 19, 2007 acting on Department of Buildings Application No. 310030098, reads in pertinent part:

“ZR 42-00; Proposed residential use (use group 2A) is not permitted in a manufacturing district”; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a site within an M1-2 zoning district within the DUMBO Historic District, the conversion of a five-story warehouse building from manufacturing use to Use Group 2 residential use, contrary to Z.R. § 42-00; and

WHEREAS, a public hearing was held on this application on June 17, 2008 after due notice by publication in the *City Record*, with a continued hearing on July 29, 2008, and then to decision on September 23, 2008; and

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

WHEREAS, Community Board 2 Brooklyn, recommends approval of the subject application; and

WHEREAS, the subject site is a through-block site located on the south side of Water Street between Jay Street and Bridge Street within an M1-2 zoning district within the DUMBO Historic District; and

WHEREAS, the site has 220’-0” of frontage on both

Water and Front streets and occupies the entire block-front along Bridge Street measuring 200’-0” and has a total lot area of 44,000 sq. ft.; and

WHEREAS, the site is currently occupied by a five-story factory/ warehouse building with a floor area of 195,686 sq. ft.; and

WHEREAS, the applicant proposes a residential development with 135 dwelling units, ground floor retail uses and 59 accessory parking spaces; and

WHEREAS, the initial application proposed 147 residential units; and

WHEREAS, the proposed building would have a total zoning floor area of 174,417 sq. ft. (4.0 FAR); including 4,750 sq. ft of retail space and 27,950 sq. ft of accessory parking located in the basement; and

WHEREAS, the applicant represents that the subject building has historically been occupied by a shoe manufacturer and other light manufacturing concerns and is currently substantially vacant due to its functional obsolescence; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: the existing historic building is obsolete for a conforming use due to (1) its configuration; (2) the size of its loading dock, (3) its narrow column spacing, (4) its non-complying elevators, and (5) low ceiling height; and the existing building is built on a slope and on a narrow street; and

WHEREAS, as to its configuration, the applicant states that the building was constructed in two separate segments; a northern portion constructed around 1890 which contains wood floors and is defined as “combustible,” and a southern portion constructed around 1920, containing concrete floors, defined as “non-combustible; and

WHEREAS, the applicant states that the two discrete building portions are treated differently by the Building Code and that the reuse of the building would require that the “combustible” wood portion be partitioned from the remainder of the building; and

WHEREAS, the applicant further states that the two segments are separated by a large interior courtyard which limits access between the two buildings and hinders the efficiency of the floor-plates; and

WHEREAS, as to the building’s loading docks, the applicant represents that the two existing loading docks have openings measuring 7’-0” by 8’-0” and 9’-0” by 12’-0”, respectively; and that both are too small to meet modern industrial standards and are non-compliant with zoning requirements for loading; and

WHEREAS, as to the building’s column spaces, the applicant represents that the existing columns divide the floor plates into 22’-0” by 10’-0” bays within the 1890 portion of the building, and divide the floor plates into 14’-0” by 14’-0” bays within the 1920 portion, and that the small bays constrict the maneuverability of goods and materials; and

WHEREAS, as to its freight elevators, the applicant represents that the existing freight elevators are not code-compliant and do not meet the capacity standards required to serve a manufacturing building of this size; and

MINUTES

WHEREAS, as to the building's ceiling heights, the applicant represents that the building's floor-to-ceiling heights measure approximately 12'-0" to 13'-0" which are inadequate in height for the storage of industrial goods and materials; and

WHEREAS, as to its grade, the applicant represents that the site has a significant downward slope to its west and south that allows only its Water Street entrance to be at grade; and

WHEREAS, the applicant represents that such grade change hampers the installation of larger street-level loading docks and would necessitate the installation of a ramping system; and

WHEREAS, the applicant further represents that the Water Street entrance is on a narrow street measuring 50 feet in width, which constrains the maneuverability of trucks and servicing; and

WHEREAS, the applicant submitted photographs and a report by a licensed engineer that documented the unique physical conditions on the subject site; and

WHEREAS, based upon its review of submitted evidence, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in using the entirety of the site in conformity with the current zoning; and

WHEREAS, the applicant represents that the obsolete condition of the building precludes any reasonable possibility that its development in strict conformity with the zoning requirements will yield a reasonable return; and

WHEREAS, the applicant provided a letter from a real estate broker evidencing its unsuccessful effort to market the site for commercial/industrial lease or purchase between December, 2003 and February, 2005; and

WHEREAS, the applicant submitted a financial feasibility report that studied the economic viability of the following scenarios: (1) conforming industrial use; (2) commercial office use; (3) the proposed conversion (135 dwelling units and 59 accessory parking spaces); and (4) a lesser-variance scenario that replaces the parking area with conforming commercial space; and

WHEREAS, this study demonstrates that neither conforming scenario, nor the lesser-variance scenario would yield a reasonable return; only the proposed development would realize a reasonable rate of return; and

WHEREAS, at hearing, the Board raised concerns regarding the calculation of site value in the feasibility report which was partly based on the sales prices of buildings located in districts where residential use is allowed as-of-right; and

WHEREAS, the applicant responded by providing additional building sale comparables in manufacturing districts that reconfirmed the initial site value; and

WHEREAS, therefore, based on the above, the Board has determined that because of the subject lot's unique physical conditions there is no reasonable possibility that development in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood or impact neighboring conforming uses; and

WHEREAS, the applicant represents that the proposed

conversion and the introduction of 135 additional dwelling units is consistent with the neighborhood character of DUMBO; and

WHEREAS, the applicant represents that an M1-2/R8 (MX-2) district, where residential use is allowed as-of-right, is located directly south of the site across Front Street and that an R6B district is established on the block directly to the east of the site; and

WHEREAS, additionally, the applicant submitted a land use map documenting legal residential uses directly north of the site across Water Street and directly to the east of the site across Bridge Street; and

WHEREAS, the applicant is proposing 59 residential accessory parking spaces in the basement of the subject building; and

WHEREAS, the Board notes that the proposed accessory parking spaces will ensure that the proposed residential conversion would not reduce the availability of on-street parking spaces in the neighborhood; and

WHEREAS, the Board notes that the Landmarks Preservation Commission (LPC) issued a Certificate of Appropriateness for the proposed project on September 2, 2008; and

WHEREAS, each dwelling unit shall be equipped with ceiling-hung air-conditioning unit as required by the LPC Certificate of Appropriateness; and

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

WHEREAS, the applicant represents that the specific hardship present at the site was not caused either by the owner or a predecessor in title; and

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

WHEREAS, the Board notes that the number of residential units proposed has been reduced from 147, as initially proposed, to 135; and

WHEREAS, the applicant has provided a financial feasibility study of a lesser-variance scenario that retained the ground floor as conforming use; which did not show a reasonable rate of return; and

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.12 and 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 08BSA031K dated October 30, 2007; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land

MINUTES

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; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the Department of Environmental Protection's Office of Environmental Planning and Assessment has reviewed the following submissions from the Applicant: (1) an October 2007 Environmental Assessment Statement, (2) a June 2004 Phase I Environmental Site Assessment (3) June 2004 and July 2004 Phase II Limited Subsurface Investigation reports; (4) December 2006 Remedial Investigation Report; (5) May 2007 Remedial Action Work Plan; (6) August 2008 Construction Health and Safety Plan (CHASP); and (7) a June 2008 Industrial Source Screening Analysis; and

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

WHEREAS, the environmental assessment identified hazardous materials present on the subject site, a Restrictive Declaration was therefore executed and recorded against the property on August 11, 2008 to protect construction workers and future occupants from exposure; and

WHEREAS, a Remedial Closure Report certified by a Professional Engineer must be submitted to DEP showing that all remedial requirements have been properly implemented before proceeding with construction; and

WHEREAS, the issuance of a Notice of Satisfaction is contingent on DEP approval of the Remedial Closure Report; and

WHEREAS, with respect to noise, as the proposed project would be a sensitive receptor, a noise monitoring study was conducted to determine the level of window/wall attenuation required to achieve acceptable interior noise levels; and

WHEREAS, since the existing noise levels fall within the "marginally acceptable" category, the building shall be designed to provide attenuation of 25 dBA in order to maintain interior levels of 45 dBA or lower in the residential units; 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.

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 Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6

NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under Z.R. § 72-21, to permit, on a site within an M1-2 zoning district, the conversion of a five-story building from manufacturing use to Use Group 2 residential use, contrary to Z.R. § 42-00; and 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 15, 2008" –(11) sheets and "Received September 4, 2008" –(1) sheet; and on further condition:

THAT there shall be a maximum of 169,667 sq. ft. of residential zoning floor area;

THAT there shall be a maximum of 135 residential units in the building;

THAT there shall be a minimum of 59 accessory parking spaces;

THAT required light and air for each dwelling unit will be approved by DOB;

THAT the above conditions shall be listed on the Certificate of Occupancy;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

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

THAT DEP shall be contacted to coordinate the timing and completion of field testing and soil remediation activities;

THAT the building shall be designed to provide attenuation of 25 dBA in order to maintain interior levels of 45 dBA or lower in the residential units;

THAT the issuance of building permits shall be conditioned on the issuance of a DEP Notice to Proceed;

THAT issuance of a permanent certificate of occupancy shall be conditioned on the issuance by DEP of a Notice of Satisfaction;

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

THAT construction shall be substantially completed in accordance with the requirements of ZR § 72-23;

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, September 23, 2008.

94-08-BZ

CEQR #08-BSA-084K

APPLICANT – Law Offices of Howard Goldman, LLC, for ZTI Corp., owner; Pitkin Managers, LLC, lessee.

SUBJECT – Application April 16, 2008 – Variance (§72-21) to waive all the required accessory parking (23 spaces) for the residential portion of a mixed-use redevelopment of

MINUTES

an existing theatre building; contrary to §25-00. C4-3 district.

PREMISES AFFECTED – 1501 Pitkin Avenue, between Legion Street and Saratoga Avenues, Block 3492, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #16BK

APPEARANCES –

For Applicant: Chris Wright.

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 Superintendent, dated March 20, 2008, acting on Department of Buildings Application No. 310106989, reads in pertinent part:

“Respectfully request formal denial of proposed parking on attached plans. Parking does not comply with Section 25-00 of the Zoning Resolution”; and

WHEREAS, this is an application under ZR § 72-21 to permit, on a site within a C4-3 zoning district, a waiver of the required accessory parking for the residential units of a proposed mixed-use conversion of an existing building, contrary to ZR § 25-00; and

WHEREAS, a public hearing was held on this application on August 26, 2008, after due notice by publication in *The City Record*, and then to decision on September 23, 2008; and

WHEREAS, this application is brought on behalf of POKO Partners LLC, a property manager and developer of low-income housing; and

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

WHEREAS, the site is located on a trapezoidal-shaped property bounded by East New York Avenue on the north, Legion Street on the west, Pitkin Avenue on the south, and Saratoga Avenue on the east, in a C4-3 zoning district; and

WHEREAS, the site has 211.3 feet of frontage on East New York Avenue, 100.2 feet of frontage on Legion Street, 200 feet of frontage on Pitkin Avenue, and approximately 169 feet of frontage Saratoga Avenue and has a total lot area of 27,000 sq. ft.; and

WHEREAS, the site is occupied by a vacant theater built in 1930 with a total floor area of 50,000 sq. ft.; and

WHEREAS, the applicant proposes to convert the existing theater building to a seven-story mixed-use development with two floors of retail, commercial and community facility use (50,618 sq. ft.) and five floors (78,631 sq. ft.) of residential use; and

WHEREAS, the building is proposed to have 66 residential units and a total floor area of 129,249 sq. ft. (4.79

FAR); and

WHEREAS, because of its pre-existing non-compliance with off-street accessory parking requirements, the applicant states that the Department of Buildings has granted a waiver for the required parking for the commercial, retail and community facility floor area; and

WHEREAS, the applicant states, however, that pursuant to ZR § 25-33, the project would be subject to an accessory parking requirement of 33 spaces for the residential units; and

WHEREAS, the applicant represents that no parking spaces can be provided on-site and therefore seeks a waiver of the full accessory parking requirement; and

WHEREAS, the applicant represents that the development and use of the site, otherwise conforms with all zoning district regulations; and

WHEREAS, the Board notes that the conversion of the building must be approved by DOB for compliance with all zoning district regulations; and

WHEREAS, accordingly, the Board’s review was limited to the request to waive the accessory parking requirement; and

WHEREAS, the applicant states that the following are unique physical conditions which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: the site is developed with an obsolete theater building in severe disrepair which covers the entire tax lot and that has structural limitations which preclude parking within the existing structure; and

WHEREAS, as to the lot coverage, the applicant represents that the existing building covers the entire lot area, leaving no open space available for off-street parking; and

WHEREAS, regarding the structural limitations of the existing building, the applicant states that the existing cellar is shallow and only partially excavated, making it impossible to provide sub-surface accessory parking on the site; and

WHEREAS, the applicant further states that accessory parking could be provided on the site only by construction of an indoor garage on the ground floor, including structural support, mechanicals, paving and a system for ingress and egress; and

WHEREAS, the applicant represents that the ground floor is currently improved with a stage and theater seating and therefore lacks the infrastructure necessary to create a conforming 33-space garage; and

WHEREAS, the applicant further represents that providing accessory parking on the ground floor would require elimination of the retail space, and that the consequential elimination of this rental stream would make the project infeasible; and

WHEREAS, at hearing, the Board asked the applicant to explain why parking was not feasible in the cellar; and

WHEREAS, in response, the applicant stated that inconsistent cellar heights and levels would require costly demolition and the construction of ramps; and

WHEREAS, the applicant further stated that such excavation would likely weaken the structure of the existing

MINUTES

building, given its age and poor condition; and

WHEREAS, the Board agrees that the unique physical conditions cited above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, as noted above, the site is occupied by a deteriorated theater which can no longer be used for the purpose for which it was built; and

WHEREAS, the applicant states that, as a consequence of the obsolescence of the existing theater, the subject building is predominately vacant, with occupancy limited to several small ground-floor retail establishments with square footage of less than 5,000 sq. ft.; and

WHEREAS, these retail stores provide only limited rental revenue; and

WHEREAS, the applicant submitted a feasibility study analyzing the following scenarios: (1) an as of right mixed-use scenario providing the required accessory parking on the ground floor; and (2) the proposed mixed-use project with no parking; and

WHEREAS, the applicant asserts that the as of right scenario would result in a negative rate of return and that the proposed use is the minimum necessary to achieve a reasonable return; and

WHEREAS, based upon its review of the applicant's submissions, 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 variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant represents that the development and use of the site, except for the requested accessory parking waiver, conforms with all zoning district regulations and is consistent with the community and neighborhood character; and

WHEREAS, the applicant notes that project site is located in a C4-3 corridor within an R6 zoning district, which permits medium density multiple dwellings consistent in size with the proposed project; and

WHEREAS, the applicant further states that Pitkin Avenue is one of the most active commercial centers in the area and is characterized by two-story and four-story commercial buildings, a number of which have upper stories devoted to residential use; and

WHEREAS, the applicant submitted a survey conducted on a typical weekday between the hours of 8:00 a.m. and 9:00 a.m. and between noon and 2:00 p.m., and on a Saturday between the hours of 8:00 a.m. and 2:00 p.m., which reflected that, within a quarter-mile radius of the site, more than 570 on-street parking spaces were available during a weekday morning, more than 900 spaces were available during the weekday afternoon, and 875 parking spaces were available on a typical Saturday; and

WHEREAS, the applicant represents that the

conversion of the building will not generate significant parking demand because the proposed residential units would be occupied by persons with income levels at or below 50 percent of the Area Median Income who are expected to own few cars; and

WHEREAS, the applicant points out that the building is historically significant and is relatively intact; providing an accessory parking waiver would also allow the retention of more of the facade's decorative elements; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title but arises due to the full lot coverage of the existing building and its structural limitations; and

WHEREAS, the applicant represents that the proposed represents the minimum variance needed to allow for a reasonable and productive use of the site; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to pursuant to 6 NYCRR, Part 617.2; 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.08-BSA-084K, dated April 9, 2008; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, 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, to permit within an C4-3 zoning district, the elimination of 33 accessory parking spaces for a proposed mixed-use

MINUTES

conversion of an existing building, contrary to ZR § 25-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received July 16, 2008"-(12) sheets; and *on further condition*:

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

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

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

THAT, construction will proceed in accordance with ZR § 72-23;

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, September 23, 2008.

145-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Faige Neuman and Stephen Neuman, owner.

SUBJECT – Application May 16, 2008 – 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); less than the minimum side yards (§23-461) and less than the required rear yard (§23-47) in an R2 zoning district.

PREMISES AFFECTED – 1121 East 28th Street, east side of East 28th Street, between Avenue K and Avenue L, Block 7628, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Fredrick Becker.

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 Superintendent, dated April 16, 2008, acting on Department of Buildings Application No. 310126388 reads, in pertinent part:

- “1) Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of 0.50.
- 2) Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio (OSR) is less than the minimum required open space of 150.
- 3) Proposed plans are contrary to ZR 23-47 in

that the proposed rear yard is less than the minimum required rear yard of 30’.

- 4) Proposed plans are contrary to ZR 23-461 and 23-48 in that the proposed side yards are less than the 5’-0” minimum side yard required;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yard and rear yard, contrary to ZR §§ 23-141, 23-461, 23-48 and 23-47; and

WHEREAS, a public hearing was held on this application on August 26, 2008, after due notice by publication in *The City Record*, and then to decision on September 23, 2008; and

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

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

WHEREAS, the subject site is located on the east side of East 28th Street, between Avenue K and Avenue L; and

WHEREAS, the subject site has a total lot area of 2,000 sq. ft., and is occupied by a single-family home with floor area of 1,292 sq. ft. (0.65 FAR); and

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

WHEREAS, the applicant seeks an increase in floor area from 1,292 sq. ft. (0.65 FAR), to 2,000 sq. ft. (1.0 FAR); the maximum floor area permitted is 1,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide an open space ratio of 48 percent (a minimum of 150 percent is required); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yards with widths of 3’-8” along the northern lot line, and 7 ½” along the southern lot line, respectively (side yards with a total width of 10’-0” and a minimum width of 5’-0” each are required), as the site qualifies as a pre-existing narrow lot; and

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

WHEREAS, at hearing, the Board requested that the applicant clearly establish that the second floor of the home is at least 15’-0” from the front yard property line; and

WHEREAS, in response, the applicant submitted revised drawings indicating that the distance from the second floor of the home is located 15’-0” from the front yard property 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

MINUTES

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 R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, side yard, and rear yard, contrary to ZR §§ 23-141, 23-461, 23-48 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 September 19, 2008"-(10) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a total floor area of 2,000 sq. ft. (1.0 FAR), an open space ratio of 48 percent, one side yard with a width of 3'-8", one side yard with a width of 7½", and a rear yard with a minimum depth 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 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, September 23, 2008.

148-08-BZ

APPLICANT – Dennis D Dell'Angelo, for Michael Hass, owner.

SUBJECT – Application May 28, 2008 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary floor area and open space (§23-141); less than the required side yards (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1383 East 27th Street, east side of East 27th Street, 60' north of Avenue N, Block 7663, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Marc Dell'Angelo.

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 Superintendent, dated May 27, 2008, acting on Department of Buildings Application No. 310144019, reads in pertinent part:

- "1) Proposed FAR and OSR constitutes an increase in the degree of existing non-compliance contrary to sec. 23-141 of the NYC zoning resolution.
- 2) Proposed horizontal enlargement provides less than the required side yards contrary to sec. 23-46 of the NYC zoning resolution and less than the required rear yard contrary to sec. 23-47 of the NYC zoning resolution;" and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards and rear yard, contrary to ZR §§ 23-141, 23-46 and 23-47; and

WHEREAS, a public hearing was held on this application on August 26, 2008, after due notice by publication in *The City Record*, and then to decision on September 23, 2008; and

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

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

WHEREAS, the subject site is located on the east side of 27th Street, between Avenue M and Avenue N; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with floor area of approximately 1,661 sq. ft. (0.41 FAR); and

WHEREAS, the premises are 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 approximately 1,661 sq. ft. (0.41 FAR), to 3,956 sq. ft. (0.98 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide an open space ratio of 53 percent (a minimum of 150 percent is required); and

WHEREAS, the proposed enlargement will provide one side yard along the southern lot line with a width of 8'-0¼" and will maintain the existing non-complying side yard along the northern lot line with a width of 4'-11¼" (two

MINUTES

side yards with minimum widths of 5'-0" and 8'-0", respectively, and a total minimum width of 13'-0" are required); and

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

WHEREAS, at hearing the Board questioned which portions of the original home were being retained; and

WHEREAS, in response, the applicant submitted revised plans showing the portions of the existing home that were being retained; 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 R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, 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 August 8, 2008"-(11) sheets, "August 11, 2008"-(1) sheet and "September 5, 2008"-(1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a total floor area of 3,955.9 sq. ft. (0.98 FAR), an open space ratio of 53 percent, one side yard with a width of 8'-0¼", one side yard with a width of 4'-11¾", and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

THAT DOB shall review and approve the perimeter wall height and compliance with the sky exposure plane;

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, September 23, 2008.

165-08-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP; for Vornado Office Management LLC, owner; Bally Sports Club, Incorporated, lessee.

SUBJECT – Application June 18, 2008 – Special Permit (§73-36) to allow a physical culture establishment on four levels in an existing 26-story building. The proposal is contrary to ZR § 32-10. C6-6 & C6-4.5 MiD districts.

PREMISES AFFECTED – 11 Penn Plaza, a/k/a 166 West 32nd Street, south side of West 32nd Street between Seventh and Sixth Avenues. Block 807, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

ACTION OF THE BOARD – Laid over to October 28, 2008, at 1:30 P.M., for decision, hearing closed.

243-07-BZ/244-07-A

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Cee Jay Real Estate Development Company, owner.

SUBJECT – Application October 29, 2007 – Variance (§72-21) to construct a three story, one family residence on a irregular, vacant, triangular lot in a Lower Density Growth Management (LDGM) area. This application seeks to vary floor area and open space (§23-141); less than the minimum front yards (§23-45) and less than the required amount of parking (§23-622) in an R3-2 zoning district.

PREMISES AFFECTED – 120 John Street, northwest corner of the intersection of John Street and Douglas Street, Block 1123, Lot 120, Borough of Staten Island.

COMMUNITY BOARD #ISI

APPEARANCES –

For Applicant: Adam Rothkrug.

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 October 28, 2008, at 1:30 P.M., for decision, hearing closed.

MINUTES

257-07-BZ

APPLICANT – Gordon J. Davis c/o Dewey & LeBoeuf, for The Mount Sinai Hospital and Mount Sinai, owners; One Gustave L. Levy Place, lessees.

SUBJECT – Application November 17, 2007 – Variance (§72-21) to permit the construction of an eleven-story, approximately 269,000 square foot Center for Science and Medicine Building at the Mount Sinai Medical Center. The proposal is contrary to sections §24-522 (height, setbacks, and sky exposure plane for community facility), §24-11 (community facility lot coverage), and §24-54 (community facility tower coverage).

PREMISES AFFECTED – 3 East 101st Street, 11 East 101st Street, 65 and 4-20 East 102nd Street, Block 1607, Lots 3, 5, 59, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Susan Golden.

ACTION OF THE BOARD – Laid over to October 7, 2008, at 1:30 P.M., for deferred decision.

291-07-BZ

APPLICANT – Eric Palatnik, P.C., for Cong. Tifereth Torna Eliezer, owner.

SUBJECT – Application December 27, 2007 – Variance (§72-21) to permit the alteration of the existing residential structure to create a Use Group 4 synagogue with accessory rabbi's quarters. The proposal is contrary to §24-35 (side yards), §24-391 (rear yard), §24-34 (front yard), and §24-521 (front wall height). R4 district.

PREMISES AFFECTED – 1912 New York Avenue, between Avenues J and K, Block 7614, Lot 66, Borough of Brooklyn.

COMMUNITY BOARD #18BK

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 October 7, 2008, at 1:30 P.M., for decision, hearing closed.

59-08-BZ

APPLICANT – Sheldon Lobel, P.C., for 591-595 Forest Avenue Realty Corp., owner; Forest Avenue Fitness Group, LLC, lessee.

SUBJECT – Application March 17, 2008 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment on the first and second floors of an existing building. The proposal is contrary to section 32-10. C2-1 within R3X district.

PREMISES AFFECTED – 591 Forest Avenue, north side of Forest Avenue, between Pelton Avenue and Regan Avenue, Block 154, Lot 140, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Elizabeth Safian.

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 October 28, 2008, at 1:30 P.M., for decision, hearing closed.

76-08-BZ

APPLICANT – Eric Palatnik, P.C., for Hatzolah of Far Rockaway, owner.

SUBJECT – Application April 12, 2008 – Variance (§72-21) to permit the legalization of the rear yard for the existing Use Group 4 not-for-profit ambulance/emergency garage, dispatch and training facility. The proposal is contrary to ZR section 24-36. R5 district.

PREMISES AFFECTED – 621 Beach 9th Street, south of Caffney Avenue, Block 1558, Lot 15, Borough of Queens.

COMMUNITY BOARD #14Q

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 October 28, 2008, at 1:30 P.M., for decision, hearing closed.

79-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Giuseppe Porretto, owner.

SUBJECT – Application April 3, 2008 – Variance (§72-21) for the construction of a single family residence on a vacant lot. This application seeks to vary (§23-32) for undersized lot width and lot area; (§23-461) for less than the required side yards and (§21-15) for a proposed lot line building which is not allowed in an R3-2 zoning district.

PREMISES AFFECTED – 117-23 132nd Street, easterly side of 132nd Street, 220; southerly of Foch Boulevard, Block 11696, Lot 55, Borough of Queens.

COMMUNITY BOARD #12Q

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 October 28, 2008, at 1:30 P.M., for decision, hearing closed.

MINUTES

84-08-BZ

APPLICANT – Walter T. Gorman, P.E., for Exxon Mobil Corporation, owner; L & M Service Station, lessee.

SUBJECT – Application April 9, 2008 – Special Permit (§§11-411, 11-412 & 73-01 (d)) to reinstate and amend the variance granted under Cal. No. 410-48-BZ for an automotive service station with accessory uses located in a C1-2/R4 zoning district.

PREMISES AFFECTED – 67-24 Main Street, a/k/a 68-12 Main Street, West side Street 315.5' north of 68th Drive, Block 6486, Lot 38, Borough of Queens.

COMMUNITY BOARD #8Q

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 October 28, 2008, at 1:30 P.M., for decision, hearing closed.

89-08-BZ

APPLICANT – Eric Palatnik, P.C., for Majorie Wilpon, owner.

SUBJECT – Application April 11, 2008 – Special Permit (§73-125) to allow a medical office (UG 4) in an existing one-story commercial office building, allowed by prior variance. R3X (HS) district.

PREMISES AFFECTED – 1101 Victory Boulevard, northwest corner of Victory Boulevard and Melrose Avenue, Block 247, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

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 October 7, 2008, at 1:30 P.M., for decision, hearing closed.

93-08-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Worlds Fair Development LLC, owner.

SUBJECT – Application June 30, 2008 – Variance (§72-21) to allow a six-story transient hotel (UG 5), contrary to use regulations (§22-00). R6 district.

PREMISES AFFECTED – 112-12, 112-18, 112-24 Astoria Boulevard, southwest of the intersection of 112th Place and Astoria Boulevard, Block 1706, Lots 5, 9, 11, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 1:30 P.M., for continued hearing.

159-08-BZ

APPLICANT – Jay A. Segal, for Greenberg Traurig, LLF, for DJL Family Limited Partnership, owners.

SUBJECT – Application June 10, 2008 – Variance (§72-21) to allow a new seven (7) story residential building (UG 2) containing twelve (12) dwelling units and ground floor retail (UG 6); contrary to use regulations (§42-10 & §42-14 D(2)(b)). M1-5B district.

PREMISES AFFECTED – 68-70 Spring Street, south side of Spring Street between Crosby and Lafayette Streets, Block 482, Lot 19, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jay Segal and Jack Freeman.

For Opposition: Jennifer Polovejsky and Paul Velazquez.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 1:30 P.M., for continued hearing.

178-08-BZ

APPLICANT – Eric Palatnik, P.C., for Igor Yanovsky, owner.

SUBJECT – Application July 9, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area, lot coverage and open space (§23-141(b)) and less than the minimum side yards (§23-461) in an R3-1 zoning district.

PREMISES AFFECTED – 153 Norfolk Street, between Oriental Boulevard and Shore Boulevard, Block 8757, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Judith Baron and Susan Klapper.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 1:30 P.M., for continued hearing.

185-08-BZ

APPLICANT – Slater & Beckerman, LLP, for Claremont LaSalle, Incorporated c/o Manhattan Modern Management, owner.

SUBJECT – Application July 11, 2008 – Variance (§72-21) to allow the enlargement of a six-story building and installation of an elevator, contrary to bulk regulations.

PREMISES AFFECTED – 170 Claremont Avenue, corner lot located on the eastside of Claremont Avenue and south side of LaSalle Street, Block 1993, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #9M

APPEARANCES –

For Applicant: Carole Slater, John Gillis, Jack Dagleish.

For Opposition: Donald L. Coned.

ACTION OF THE BOARD – Laid over to

MINUTES

November 18, 2008, for continued hearing.

194-08-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Colonnade Management LLC, owner.

SUBJECT – Application July 16, 2008 – Special Permit (§73-19) to allow a Use Group 3 school on the first floor of an existing four-story mixed-use building. The proposal is contrary to ZR Section 42-10. M1-5B district.

PREMISES AFFECTED – 432 Lafayette Street, westerly side of Lafayette Street, 229’-11” south of Astor Place, Block 545, Lot 38, Borough of Manhattan.

COMMUNITY BOARD #2M

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 October 7, 2008, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

SPECIAL HEARING
WEDNESDAY MORNING, SEPTEMBER 24, 2008
10:00 A.M.

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

APPEALS CALENDAR

136-08-A

APPLICANT – John Beckmann.
OWNER: Pauline & Gus Englezos.
SUBJECT – Application May 2, 2008 – An appeal seeking
to revoke a permit that allows off- street parking in the front
yard of an attached dwelling contrary to §25-621. R4-1
Zoning District.
PREMISES AFFECTED – 846 70th Street, between 8th
Avenue and Fort Hamilton Parkway, Block 5896, Lot 25,
Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –
For Applicant: John Beckman, Stephen DiBrienza, Council
Member Vincent Gentile, Joseph Greenwood, Dean
Resinya, Joanne Semman, Josephine Beckman, Ronald
Gross, Susan Pelarlie, Lou Gancila, Victoria Hofmo and
Jane Cuccurello.

For Opposition: Gus Englezos and Ganine Gayland,
Department of Buildings.

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 October
28, 2008, at 10 A.M., for decision, hearing closed.

202-08-BZY

APPLICANT – Greenberg Traurig by Deirdre Carson, for
Oliver Development, LLC, owner.
SUBJECT – Application August 1, 2008 – Extension of
time (§11-331) to complete construction of a minor
development commenced prior to a text amendment on July
23, 2008. R6 Zoning district.
PREMISES AFFECTED – 131 Second Place, northwest
corner of Second Place and Smith Street, Block 459, Lot 24,
Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –
For Applicant: Deirdre Carson, Neil Wexley, Szlvztore
Buddy Scotto and Michael Brown.
For Opposition: Paul Nelson for Assembly Joan L. Millman,
Levoy Branch, Maria Pagano, John Hatheway, Gary G.
Reilly, Doanld S., Vincent Favorito., Lucy DeCarlo, Mike
Saluatore, Bette Stoltz, Maryann Yary, Zoe Pellegrino, and

Barbara Deinhasdt.

ACTION OF THE BOARD – Laid over to October
28, 2008, at 10 A.M., for continued hearing.

212-08-A

APPLICANT – Greenberg Traurig by Deirdre Carson for
Oliver Development, LLC, owner.
SUBJECT – Application August 1, 2008 – Appeal seeking a
determination that the owner has acquired a common law
vested right to continue development under the prior zoning
district regulations. R6 zoning district.

PREMISES AFFECTED – 131 Second Place, northwest
corner of Second Place and Smith Street, block 459, Lot 24,
Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –
For Applicant: Deirdre Carson, Neil Wexley, Szlvztore
Buddy Scotto and Michael Brown.
For Opposition: Paul Nelson for Assembly Joan L. Millman,
Levoy Branch, Maria Pagano, John Hatheway, Gary G.
Reilly, Doanld S., Vincent Favorito., Lucy DeCarlo, Mike
Saluatore, Bette Stoltz, Maryann Yary, Zoe Pellegrino, and
Barbara Deinhasdt.

ACTION OF THE BOARD – Laid over to October
28, 2008, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

*CORRECTION

This resolution adopted on July 29, 2008, under Calendar No. 713-55-BZ and printed in Volume 93, Bulletin No. 31, is hereby modified to read as follows:

713-55-BZ

APPLICANT – Walter T. Gorman, P.E., for Exxon Mobil Corporation, owner; Brendan Utopia Mobil, lessee.

SUBJECT – Application May 23, 2008 – Extension of Time to obtain a Certificate of Occupancy/waiver for a gasoline service station (Mobil), in a C2-2/R3-2 zoning district, which expired on May 22, 2003.

PREMISES AFFECTED – 181-05 Horace Harding Expressway, north side blockfront between Utopia Parkway and 182nd Street, Block 7065, Lot 8, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Patrick C. Gorman.

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, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to obtain a certificate of occupancy, which expired on May 21, 2003; and

WHEREAS, a public hearing was held on this application on July 1, 2008 after due notice by publication in *The City Record*, with a continued hearing on July 22, 2008, and then to decision on July 29, 2008; and

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

WHEREAS, the site is located on the north side of the Horace Harding Expressway between Utopia Parkway and 182nd Street, in a C2-2 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 11, 1956, when, under the subject calendar number, the Board granted a variance to permit the occupation of the premises by a gasoline station and accessory uses; and

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

WHEREAS, the grant was most recently extended on May 21, 2002, for a period of ten years, to expire on December 11, 2011, with a condition that a certificate of occupancy be obtained by May 21, 2003; and

WHEREAS, the applicant represents that it was unable to obtain a certificate of occupancy in part because a landscaped area had been paved over contrary to the BSA-approved plans; and

WHEREAS, on January 31, 2005, at the applicant's request, the Board issued a letter to the Department of Buildings, stating no objection to the paved area; and

WHEREAS, based upon the above, the Board finds that the requested extension of time to obtain a certificate of occupancy 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 11, 1956, so that as amended this portion of the resolution shall read: "to permit a six-month extension of time to obtain a certificate of occupancy, to expire on January 29, 2009; *on condition* that all use and operations shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 23, 2008"-(6)sheets; and *on further condition*:

THAT a certificate of occupancy shall be obtained by January 29, 2009;

THAT all conditions from the prior resolution not specifically waived by the Board 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." (Application No. 410058681)

Adopted by the Board of Standards and Appeals July 29, 2008.

****The resolution has been corrected in the DOB Application No. which read: "N.B. No. 3233" now reads, "Application No. 410058681", and to add Approved Plans dated "Received May 23, 2008"-(6) sheets. Corrected in Bulletin No. 39, Vol. 93, dated October 2, 2008.**

MINUTES

*CORRECTION

This resolution adopted on January 9, 2007, under Calendar No. 190-92-BZ and printed in Volume 92, Bulletin Nos. 1-3, is hereby modified to read as follows:

190-92-BZ

APPLICANT – Alfonso Duarte, for 180 Tenants Corp., owner; Waterview Parking Inc., lessee.

SUBJECT – Application August 15, 2006 – Extension of Term to allow the use of surplus parking spaces for transient parking which was granted contrary to Section 60, Sub. 1b of the Multiple Dwelling Law. R10A and R8B zoning district.

PREMISES AFFECTED – 180 East End Avenue, north side between East 88th and East 89th Streets, Block 1585, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Alfonso Duarte, P.E.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term for a previously granted variance for a transient parking garage, which expired on October 5, 2003; and

WHEREAS, a public hearing was held on this application on December 5, 2007 after due notice by publication in *The City Record*, and then to decision on January 9, 2007; and

WHEREAS, the subject premises is located on the east side of East End Avenue between East 88th Street and East 89th Street; and

WHEREAS, the site is occupied by a 20-story with penthouse building; and

WHEREAS, the site is located partially within an R10A zoning district and partially within an R8B zoning district; and

WHEREAS, there are a total of 60 parking spaces in the lower cellar and 55 parking spaces in the upper cellar; and

WHEREAS, on May 8, 1962, the Board granted a waiver, under BSA Cal. Nos. 1659-61-BZ and 1660-61-A, to allow transient parking spaces in the lower and upper cellar accessory garage of the subject building for a term of 21 years; and

WHEREAS, on October 5, 1993, under the subject calendar number, the Board reinstated the grant and granted an extension of term to permit transient parking; and

WHEREAS, the applicant submitted a photograph of the required sign, explaining building residents' right to recapture parking spaces; and

WHEREAS, the applicant also noted the location of the sign on the site plan; and

WHEREAS, at hearing the Board asked the applicant to provide a photograph demonstrating that the sign is affixed to the wall in a permanent fashion in a conspicuous location; and

WHEREAS, the applicant provided photographic evidence that the sign is installed and permanently affixed to the wall; and

WHEREAS, based upon its review of the record, the Board finds that the instant application is appropriate to grant, based upon the evidence submitted.

Therefore it is Resolved that the Board of Standards and Appeals, *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution having been adopted on October 5, 1993, so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the grant for an additional ten years from October 5, 2003, to expire on October 5, 2013; *on condition* that that all work shall substantially conform to drawings filed with this application and marked 'Received November 20, 2006'-(1) sheet and 'December 4, 2006'-(1) sheet; and *on further condition*:

THAT this term shall expire on October 5, 2013;

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

THAT a sign providing the same information about tenant recapture rights be located in a conspicuous place within the garage, permanently affixed to the wall;

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

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

THAT the layout of the parking lot shall be as approved by the Department of Buildings;

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

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

(DOB Application No. 104453850)

Adopted by the Board of Standards and Appeals, January 9, 2007.

***The resolution has been corrected in the DOB Application No. which read: "DOB Application. No. 104183571" now reads, "Application No. 104453850 Corrected in Bulletin No. 39, Vol. 93, dated October 2, 2008.**

MINUTES

***CORRECTION**

now reads, "Applic. No. 500468059". Corrected in Bulletin No. 39, Vol. 93, dated October 2, 2008.

This resolution adopted on May 17, 1994, under Calendar No. 170-93-A and printed in Volume LXXIX, Bulletin No. 31, is hereby modified to read as follows:

Jeff Mulligan, Executive Director

170-93-A

APPLICANT – Vito J. Fossella, for Louis Russo, owner.
SUBJECT – Application December 13, 1993 – Proposed building not fronting on a legally mapped street is contrary to Section 36 Article 3 of the General City Law.

PREMISES AFFECTED – 220 Industrial Loop, west side, 1695.35' north of Arthur Kill Road, Block 7206, Lot 130, Borough of Staten Island.

APPEAREANCES –

For Applicant: Victor Han.

ACTION OF THE BOARD – Appeal granted on condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chairman Silva, Vice-Chair Schlissel, Commissioner Palladino and Commissioner Joseph.....4

Negative.....0

Absent: Commissioner Chen.....1

THE VOTE TO GRANT –

Affirmative: Chairman Silva, Vice-Chair Schlissel, Commissioner Palladino and Commissioner Joseph.....4

Negative.....0

Absent: Commissioner Chen.....1

THE RESOLUTION –

WHEREAS, the decision of the Borough Commissioner, dated November 16, 1993, acting on Applic. #500468059, reads;

“Street giving access to the proposed building is not placed on the official map of the City of New York, therefore;

1. No Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law”; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Borough Commissioner, dated November 16, 1993, acting on Applic. No. 500468059, Objection No.1, is modified under the power vested in the Board limited to the objection noted, on condition that the sidewalk, curb, curb cut and pavement to the middle of the street shall comply with the requirements of the Department of Transportation; that the building shall substantially conform to drawings filed with the application marked, “Received December 13, 1993”-one(1) sheet and “Received March 1, 1994”-one(1) sheet; and that all applicable laws, rules and regulations shall be complied with.

Adopted by the Board of Standards and Appeals, May 17, 1994.

***The resolution has been corrected in the DOB Application No. which read: “Applic. No. 500067642”**