
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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

Volume 93, Nos. 44-45

November 28, 2008

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268-08-BZ

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269-08-BZ

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270-08-A

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271-08-A

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272-08-A

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273-08-A

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274-08-BZ

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275-08-BZ

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276-08-BZ

150 East 5th Street, Southside 155 feet east of Lexington Avenue., Block 1309, Lot(s) 7501, Borough of **Manhattan, Community Board: 6**. Special Permit (§73-36) to allow legalization of a physical culture establishment.

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

DECEMBER 9, 2008, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 9, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

26-02-BZII

APPLICANT – Walter T. Gorman, P.E., for ExxonMobil Corporation, owner; A & A Automotive Corporation, lessee. SUBJECT – Application June 23, 2008 – Extension of Time to obtain a Certificate of Occupancy/waiver for an existing gasoline service station (Mobil), in a C1-2/R3X zoning district, which expired on December 10, 2006. PREMISES AFFECTED – 1680 Richmond Avenue, northwest corner of Victory Boulevard, Block 2160, Lot 1, Borough of Staten Island.
COMMUNITY BOARD #2SI

APPEALS CALENDAR

115-07-A & 116-07-A

APPLICANT – Rampulla Associates Architects, for Frank Maisano, owner. SUBJECT – Application May 10, 2007 – Proposed construction of four one family homes located within the bed of a mapped street (Ramona Avenue) contrary to Section 35 of the General City Law. R3-X SSRD Zoning District. PREMISES AFFECTED – 310 & 335 Ramona Avenue, Ramona Avenue and Huguenot Avenue, Block 6836, Lot 63 (tent 55 & 59), Borough of Staten Island.
COMMUNITY BOARD #3SI

56-08-A & 57-08-A

APPLICANT – Rampulla Associates Architects, for Frank Maisano, owner. SUBJECT – Application March 14, 2008 – Proposed construction of four single family detached homes located within the bed of a mapped street contrary to General City Law Section 35. R3X- SSRD, SGMD Zoning Districts. PREMISES AFFECTED – 322 & 328 Ramona Avenue, south side of Ramona Avenue 140’ west of Huguenot Avenue, Block 6836, Lot 63 (tent 57), Borough of Staten Island.
COMMUNITY BOARD #3SI

211-08-A

APPLICANT – Gary D. Lenhart, for The Breezy Point Cooperative, owner; Trish & Thomas Ecock, lessee. SUBJECT – Application August 15, 2008 – Proposed reconstruction and enlargement of existing single family dwelling partially in the bed of a mapped street is contrary to Article 3, Section 35 of the General City Law and the proposed upgrade of an existing legal non conforming private disposal system in the bed of the mapped street and Service road. R4 Zoning District. PREMISES AFFECTED – 434 Oceanside Avenue, north side Avenue at the intersection of mapped Beach 211th Street, Block 16350, Lot p/o 400, Borough of Queens.
COMMUNITY BOARD #14Q

DECEMBER 9, 2008, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, December 9, 2008, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

45-08-BZ

APPLICANT – Rampulla Associates Architects, for 65 Androvette Street, LLC, owner. SUBJECT – Application February 29, 1998 – Variance (§72-21) to construct a four-story, 108 unit age restricted residential building contrary to use regulations (§42-00, §107-49). M1-1 District / Special South Richmond Development District. PREMISES AFFECTED – 55 Androvette Street, north side Androvette Street, corner of Manley Street, Block 7407, Lots 1, 80, 82, (Tent. 1), Borough of Staten Island.
COMMUNITY BOARD #3SI

201-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for For Our Children, Inc., owner. SUBJECT – Application August 1, 2008 – Variance (§ 72-21) to allow a one story warehouse/ commercial vehicle storage building (UG 16); contrary to use regulations (§ 22-00). R3X district. PREMISES AFFECTED – 40-38 216th Street, between 215th Place and 216th Street, 200’ south of 40th Avenue, Block 6290, Lot 70, Borough of Queens.
COMMUNITY BOARD #11Q

CALENDAR

223-08-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Joseph Maza, owner.

SUBJECT – Application August 29, 2008 – Variance (§72-21) to permit a commercial development (local retail, use group 6) within an R3-2 (SRD) zoning district.

PREMISES AFFECTED – 4553 Arthur Kill Road, west side of Arthur Kill Road, 142' south of the intersection with Kreisler Street, Block 7596, Lot 250, Borough of Staten Island.

COMMUNITY BOARD #3SI

234-08-BZ

APPLICANT – Eric Palatnik, P.C., for 1702 Avenue Z, Inc., owner.

SUBJECT – Application September 9, 2008 – Special Permit (§73-36) to allow the proposed Physical Culture Establishment at the cellar and a portion of the first and second floors in a seven-story mixed-use building. The proposal is contrary to ZR Section 32-10. C4-2 district.

PREMISES AFFECTED – 1702 Avenue Z, southeast of the corner formed by Avenue Z and East 17th Street, Block 7462, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

244-08-BZ

APPLICANT – Rizzo Group, for BP/CGCenter II, LLC, owner; 24 Hour Fitness USA, Inc., lessee.

SUBJECT – Application October 1, 2008 – Special Permit (§73-36) to allow the proposed Physical Culture Establishment at the cellar level and first floor in a 59-story building. The proposal is contrary to ZR Section 32-10. C6-6 district.

PREMISES AFFECTED – 139-153 East 53rd Street; 140-16 East 54th Street; 601-635 Lexington Avenue; 884-892 3rd Avenue, north side of 53rd Street, between 3rd and Lexington Avenues, Block 1308, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6M

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, NOVEMBER 18, 2008
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

94-58-BZ

APPLICANT – Walter T. Gorman, P.E., for Exxon Mobil Corporation, owner; Nor-East S/S Incorporated, lessee.

SUBJECT – Application June 19, 2008 – Extension of Term/waiver for the continued operation of a gasoline service station (Mobil), in an R-4 zoning district, which expired on September 30, 2003.

PREMISES AFFECTED – 22-55/25-75 Brooklyn Queens Expressway, northeast corner of 30th Avenue, Block 1046, Lot 1, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES – None.

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, a reopening, an extension of term for the continued use of a gasoline service station with accessory uses, and an amendment to permit certain modifications to the site; and

WHEREAS, a public hearing was held on this application on October 7, 2008 after due notice by publication in *The City Record*, with a continued hearing on October 28, 2008, and then to decision on November 18, 2008; and

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

WHEREAS, Community Board 3, Queens, recommends approval of this application, subject to certain conditions; and

WHEREAS, the site is located on the east side of the Brooklyn-Queens Expressway, between 30th Avenue and 70th Street, within an R4 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since September 30, 1958 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 May 17, 1994 for a term of ten years from the expiration of the prior grant; and

WHEREAS, the term expired on September 30, 2003; the applicant states that the gasoline service station has operated continuously since the expiration of the term; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term; and

WHEREAS, the applicant also seeks to amend the grant to legalize site conditions that fail to conform to the previously approved plans, to reflect: (i) the conversion of office space to an accessory convenience store; (ii) the installation of a car vacuum and air machine along the south wall of the service building; (iii) the enlargement of a curb cut located on the northern side of 70th Street and of two curb cuts located on the northern side of the Brooklyn-Queens Expressway; and (iv) the location of an above-ground waste oil tank in the southeast corner of the site; and

WHEREAS, the Board notes that Technical Policy and Procedure Notice (TPPN) # 10/99, provides that a retail convenience store located on the same zoning lot as a gasoline service station will be deemed accessory if: (i) the accessory convenience store is contained within a completely enclosed building; and (ii) the accessory convenience store has a maximum retail selling space of 2,500 square feet or 25 percent of the zoning lot area, whichever is less; and

WHEREAS, the applicant represents that the convenience store located within the enclosed building has a retail selling space of less than 2,500 square feet or 25 percent of the zoning lot area; and

WHEREAS, thus, the Board notes that the convenience store qualifies as an accessory use pursuant to TPPN # 10/99; and

WHEREAS, at hearing the Board asked the applicant to clarify whether the paving of the site encroached onto City property; and

WHEREAS, the applicant confirmed that the site encroached onto City property and agreed to repave the sidewalk to remedy the encroachment; and

WHEREAS, the applicant submitted photographs showing new sidewalk paving on 70th Street to demonstrate that the service station no longer encroaches onto City property; and

WHEREAS, as a condition of its approval, the Community Board requested that security lighting be provided at 70th Street; and

WHEREAS, the applicant submitted revised plans reflecting the installation of additional lighting along 70th Street; and

WHEREAS, the Community Board also requested that at least one full-service pumping station be provided to serve senior citizens and customers with disabilities; and

WHEREAS, the applicant states that the service station provides two full-service pumping stations that serve senior citizens and customers with disabilities; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term and amendment

MINUTES

to the approved plans are 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 September 30, 1958, so that as amended this portion of the resolution shall read: “to extend the term for ten years from September 30, 2003, to expire on September 30, 2013, and to permit the noted site modifications; *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 October 14, 2008”–(5) sheets; and *on further condition*:

THAT the term of the grant shall expire on September 30, 2013;

THAT all signage shall comply with C1 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 relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 410063443)

Adopted by the Board of Standards and Appeals November 18, 2008.

141-58-BZ

APPLICANT – Kenneth H. Koons, for East 201 Street Realty Corporation, owner.

SUBJECT – Application August 14, 2008 – Extension of Term of a UG7 Funeral Home in an R8C-(Special Grand Concourse Preservation) zoning district which expired on July 15, 2008.

PREMISES AFFECTED – 201-203 East 202nd Street, northeast corner Grand Concourse, Block 3307, Lots 67 & 68, Borough of Bronx.

COMMUNITY BOARD #7BX

APPEARANCES –

For Applicant: Kenneth Koons.

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, a reopening, and an extension of the term for a previously granted variance permitting a funeral home (Use Group 7) in an R8 zoning

district within the Special Grand Concourse Preservation District, which expired on July 15, 2008; and

WHEREAS, a public hearing was held on this application on October 7, 2008, after due notice by publication in *The City Record*, and then to decision on November 18, 2008; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by Commissioner Ottley-Brown; and

WHEREAS, the subject site is located on the northeast corner of the intersection at East 201st Street and Grand Concourse; and

WHEREAS, the site is located within an R8 zoning district within the Special Grand Concourse Preservation District, and is occupied by a funeral home; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 22, 1958 when, under the subject calendar number, the Board granted a variance permitting the operation of a funeral home in a residential district for a term of ten years; and

WHEREAS, the grant was extended and amended at various times; most recently on July 14, 1998, when the Board extended the term for ten years, to expire on July 15, 2008; and

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

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term; and

WHEREAS, the applicant represents that there have been no changes in the use of the site or the site plan; and

WHEREAS, the applicant initially requested that the Board grant an extension without a term of years because the funeral home use at the subject site is now specifically listed as a conforming use pursuant to ZR § 122-10; and

WHEREAS, the Board notes that ‘Table A’ of ZR § 122-10 lists only the funeral home use on Lot 68 as a conforming use; the funeral home use on Lot 67 is not indicated as a conforming use; and

WHEREAS, approval by the Board is still required to maintain the funeral home use on Lot 67; and

WHEREAS, pursuant to ZR § 11-411, the Board is authorized to grant an extension only up to a term of ten years; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated July 22, 1958, so that as amended this portion of the resolution shall read: “to grant an extension of the variance for a term of ten years from the expiration of the prior grant, to *expire on* July 15, 2018; *on condition*:

THAT the term of this grant shall expire on July 15, 2018;

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

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

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

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

(Alt. No. 210051815)

Adopted by the Board of Standards and Appeals, November 18, 2008.

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

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening, an extension of the term of a special permit which expires on April 10, 2009, and an extension of the time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on October 28, 2008, after due notice by publication in *The City Record*, and then to decision on November 18, 2008; and

WHEREAS, Community Board 7, Queens, recommends approval of the application; and

WHEREAS, the subject site is located on the northwest corner of the intersection at 26th Avenue and Bell Boulevard, within a C4-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 8, 1977 when, under the subject calendar number the Board granted an application permitting the conversion of a retail store in a shopping center to an amusement arcade for a term of one year; and

WHEREAS, on May 6, 1997, under the subject calendar number, the Board permitted the relocation of the arcade from 212-65 26th Avenue to 212-95 26th Avenue; and

WHEREAS, the grant was extended and amended at various other times; most recently on April 1, 2008 when the

Board granted a one-year extension to the term of the special permit, to expire on April 10, 2009; and

WHEREAS, the applicant now seeks to extend the term of the special permit for an additional year, and to extend the time to obtain a new certificate of occupancy; and

WHEREAS, the applicant represents that an application for a certificate of occupancy is pending at the Department of Buildings; and

WHEREAS, based upon the submitted evidence, the Board finds that the instant application is appropriate to grant, with conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens, and amends* the resolution, said resolution having been adopted on February 8, 1977, as later amended, so that, as amended, this portion of the resolution shall read: “to grant a one-year extension of the term of the special permit, to expire on April 10, 2010, and a six-month extension of time to obtain a certificate of occupancy, to expire on May 18, 2009; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT the term of this grant shall be for one year from the expiration of the prior grant, to expire on April 10, 2010;

THAT a certificate of occupancy shall be obtained by May 18, 2009;

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

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of occupancy;

THAT the operation of the arcade at the subject premises shall comply with the previously approved Board plans, and all conditions from prior resolutions not specifically waived by the Board remain in effect;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 401710430)

Adopted by the Board of Standards and Appeals, November 18, 2008.

115-94-BZ

APPLICANT – Martyn & Don Weston, for Irma Poretzky, owner.

SUBJECT – Application June 16, 2008 – (§11-411) Extension of Term/Waiver for an Automotive Repair Shop located in an R6 zoning district which expired on July 30, 2006.

PREMISES AFFECTED – 2470-2480 Bedford Avenue, 60 feet north of Clarendon Road, Block 5167, Lot 40, Borough of Brooklyn.

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COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Don Weston.

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, a reopening, and an extension of term, which expired on July 30, 2006; and

WHEREAS, a public hearing was held on this application on September 9, 2008, after due notice by publication in *The City Record*, with a continued hearing on October 28, 2008, and then to decision on November 18, 2008; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of the proposal; and

WHEREAS, the site is located on the west side of Bedford Avenue, between Clarendon Road and Cortelyou Road; and

WHEREAS, the site is within an R6 zoning district and is occupied by two motor vehicle repair facilities (Use Group 16); and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 22, 1924, when, under BSA Cal. No. 562-24-BZ, the Board granted a variance permitting the construction and maintenance of a public garage for more than five motor vehicles; and

WHEREAS, on March 16, 1946, under BSA Cal. No. 562-24-BZ, the Board amended the grant to approve a change in use from a public parking garage to automobile display, sales, and service; and

WHEREAS, on July 30, 1996, under BSA Cal. No. 115-94-BZ, the Board approved an application under ZR § 11-412 permitting a change in use from automobile sales and service (Use Group 16C) to automotive sales with repair (Use Group 16) for a term of ten years; and

WHEREAS, the applicant now seeks to extend the term of the special permit, which expired on July 30, 2006; and

WHEREAS, the Board notes that any extension of term would date back to the period of the prior expiration; and

WHEREAS, the Board notes that, based on observations from its site visits, conditions on the site varied from previously approved plans, in that: (i) cars were parked on the sidewalk; (ii) signage was non-complying; and (iii) the hours of operation were not being complied with; and

WHEREAS, at hearing, the Board directed the applicant to conform the site conditions to the BSA-approved drawings; and

WHEREAS, in response the applicant submitted

photographs establishing that cars have been removed from the sidewalk and the signage has been brought into compliance with C1 signage requirements; and

WHEREAS, additionally, the applicant represents that the hours of operation are now compliant with the terms of the grant; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted July 30, 1996, so that as amended this portion of the resolution shall read: “to extend the term for ten years from the expiration of the prior grant, to expire on July 30, 2016, *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received July 21, 2008, 2008”- (1) sheet and “October 3, 2008”-(1) sheet; and *on further condition*:

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

THAT the term shall expire on July 30, 2016;

THAT the site be maintained free of debris and graffiti;

THAT the hours of operation shall be: Monday through Saturday, 9:00 a.m. to 6:00 p.m.;

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

THAT all signage shall comply with C1 zoning regulations;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 310130195)

Adopted by the Board of Standards and Appeals, November 18, 2008.

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: Eric Palatnik.

MINUTES

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, a reopening, an extension of the term of a variance permitting a commercial use in a residential zoning district, and an amendment to legalize a change in use from a retail store (Use Group 6) to an eating and drinking establishment (Use Group 6); and

WHEREAS, a public hearing was held on this application on May 6, 2008, after due notice by publication in the *City Record*, with continued hearings on June 24, 2008, July 29, 2008, and September 23, 2008, and then to decision on November 18, 2008; and

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

WHEREAS, Community Board 3, Manhattan, recommends approval of this application; and

WHEREAS, the site is located on the north side of Madison Street between Rutgers Street and Jefferson Street, within an R7-2 zoning district; and

WHEREAS, the site is currently occupied by an eating and drinking establishment (Use Group 6); and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 19, 1955 when, under BSA Cal. No. 664-54-BZ, the Board granted a variance to permit the construction and maintenance of a commercial building (retail store) for a term of fifteen years; and

WHEREAS, on October 7, 1997, under the subject calendar number, the Board granted an application to re-establish the variance, which lapsed in 1970, and to extend the term for ten years, to expire on October 7, 2007; and

WHEREAS, the applicant now seeks an amendment to legalize the change in use from a retail store (Use Group 6) to an eating and drinking establishment (Use Group 6) and to extend the term for a period of ten years; and

WHEREAS, in 2004, the use of the subject premises was changed from a retail store to an eating and drinking establishment; and

WHEREAS, the Board notes that there is a discrepancy between the existing conditions, which provide for a building built to a depth of 89'-2" and a rear yard of 11'-0" and the previously approved plans, which provide for a building that is 86'-0" in depth and a rear yard of 14'-2"; and

WHEREAS, the applicant represents that the previously approved plans are erroneous and the dimensions of the building are unchanged; and

WHEREAS, at hearing, the Board requested the applicant establish that the building had not been modified to accommodate the change in use; and

WHEREAS, in response, the applicant submitted the

plans approved by the Department of Buildings for the change in use, which demonstrate that the dimensions of the building were not altered to accommodate the change in use; and

WHEREAS, the Board therefore notes that the dimensions for the rear yard and building length on the previously approved plans are incorrect, and the correct rear yard and building length dimensions are 11'-0" and 89'-2", respectively; and

WHEREAS, at hearing, the Board requested the applicant to ensure that the signage complies with C1 zoning district regulations; and

WHEREAS, in response, the applicant removed all non-complying signage; and

WHEREAS, the Board finds that the change of use from a retail store (Use Group 6) to an eating and drinking establishment (Use Group 6) will not adversely affect the character of the neighborhood.

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens, and 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, to permit the legalization of an eating and drinking establishment (Use Group 6) at the premises, and grants an extension of term for a period of ten (10) years, to expire on October 7, 2017; *on condition* that any and all use shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received January 23, 2008"-(5) sheets; and *on further condition*:

THAT this grant shall be for a term of ten (10) years, to expire on October 7, 2017;

THAT a rear yard no less than 11'-0" in depth shall be provided in accordance with the BSA-approved plans, which yard will be maintained free and clear of debris and any other encroachments;

THAT the premises shall be maintained clean and free of graffiti;

THAT all signage shall comply with C1 zoning district regulations;

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

THAT a certificate of occupancy shall be obtained by May 18, 2009;

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

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

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

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

(DOB Application. No. 104815817)

Adopted by the Board of Standards and Appeals,

MINUTES

November 18, 2008.

170-96-BZ

APPLICANT – Martyn & Don Weston, Architects, for 8501 Flatlands Avenue, owner.

SUBJECT – Application July 30, 2008 – Extension of Term/Amendment/Waiver (§72-01 & §72-22) to reopen the term of 10 years for an automobile repair facility located in an R5 zoning district.

PREMISES AFFECTED – 8501 Flatlands Avenue, northeast corner of East 85th Street, Block 8006, Lots 6 and 7, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Don Weston.

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, a reopening, an extension of the term for a previously granted variance permitting an automobile repair facility (Use Group 16) and an amendment to permit certain modifications to the site; and

WHEREAS, a public hearing was held on this application on October 7, 2008 after due notice by publication in *The City Record*, and then to decision on November 18, 2008; and

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

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

WHEREAS, the site is located on the northeast corner of the intersection at Flatlands Avenue and East 85th Street, within an R5 zoning district; and

WHEREAS, the Board has exercised jurisdiction over Block 8006, Lot 7 since October 13, 1948 when, under BSA Cal. No. 300-48-BZ, the Board granted a variance to permit a gasoline service station, automobile repair shop, lubricatorium, and auto laundry on the subject site; and

WHEREAS, on July 6, 1983, under BSA Cal. No. 111-83-BZ, the Board permitted the enlargement of the gasoline service station through the addition of Lot 6 to the subject site pursuant to ZR § 11-412; and

WHEREAS, most recently, on April 21, 1998, under BSA Cal. No. 170-96-BZ, the Board granted a variance permitting a change of use to an automotive repair facility (Use Group 16) and an enlargement to the existing building; and

WHEREAS, the applicant now seeks to extend the term of the variance, which expired on April 21, 2008; and

WHEREAS, the applicant also seeks an amendment modifying the approved plans to reflect the addition of office space in a mezzanine; and

WHEREAS, the applicant represents that the modification adds no floor area for auto repair uses, and complies with the previously-approved building envelope; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term and amendment to the approved plans are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated April 21, 1998, so that as amended this portion of the resolution shall read: “to grant an extension of the variance for a term of ten years from the expiration of the prior grant, to expire on April 21, 2018, and to permit the noted site modifications; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received July 30, 2008”–(4) sheets; and *on further condition*:

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

THAT the term shall expire on April 21, 2018;

THAT the site be maintained free of debris and graffiti;

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

THAT all signage shall comply with C1 zoning regulations;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 310159173)

Adopted by the Board of Standards and Appeals November 18, 2008.

20-02-BZ

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

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

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

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Fredrick A. Becker.

MINUTES

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, a reopening of a previously granted special permit for a physical culture establishment (PCE), an extension of term, and an amendment to modify the hours of operation of the PCE; and

WHEREAS, a public hearing was held on this application on October 7, 2008, after due notice by publication in *The City Record*, and then to decision on November 18, 2008; and

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

WHEREAS, the PCE is located in a mixed-use commercial/residential building on the northeast corner of Park Avenue South and East 23rd Street within a C6-4A zoning district; and

WHEREAS, the site is located in portions of the cellar, first floor, and second floor of the five-story building; and

WHEREAS, the PCE has a total floor area of 24,496 sq. ft.; 3,250 sq. ft. of floor area on the cellar level, 5,900 sq. ft. of floor area on the first floor, and 15,076 sq. ft. of floor area on the second floor; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 18, 1997 when, under BSA Cal. No. 160-95-BZ, the Board permitted the legalization of an existing PCE in the subject building for a term of ten years; and

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

WHEREAS, on August 21, 2007, the special permit was extended for a term of one year, which expired on August 21, 2008; and

WHEREAS, the Board notes that numerous residential occupants testified at the August 21, 2007 hearing, raising concerns with excessive noise and vibrations caused by the operation of the PCE: and

WHEREAS, the applicant represents that these concerns have been satisfactorily addressed; and

WHEREAS, the Board notes that the applicant provided proof that the residential tenants were notified of the public hearing concerning the instant application, and that none testified in opposition; and

WHEREAS, the applicant now seeks to extend the term of the special permit; and

WHEREAS, in addition, the applicant seeks to increase the hours of operation of the PCE; and

WHEREAS, the current hours of operation are: Monday through Friday, from 6:00 a.m. to 11:00 p.m., and Saturday and Sunday, from 9:00 a.m. to 7:00 p.m.; and

WHEREAS, the proposed hours of operation are: Monday through Friday, from 5:30 a.m. to 11:00 p.m., and Saturday and Sunday, from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term and amendment to the hours of operation are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on June 18, 2002, so that as amended this portion of the resolution shall read: “to extend the term for five years from August 21, 2008, to expire on August 21, 2013, *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT the term of this grant shall expire on August 21, 2013;

THAT the hours of operation for the PCE shall be Monday through Friday, from 5:30 a.m. to 11:00 p.m., and Saturday and Sunday, from 7:00 a.m. to 9:00 p.m.;

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

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

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

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

Adopted by the Board of Standards and Appeals, November 18, 2008.

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 – 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, November 18, 2008.

MINUTES

736-45-BZ

APPLICANT – Walter T. Gorman, P.E., for Midel Property Associates, LLC, owner; Exxon Mobil Corporation, lessee.
SUBJECT – Application June 3, 2008 – Extension of Term/waiver for a previously granted variance for the operation of a gasoline service station (Mobil), in a C2-4/R8 zoning district, which expired on March 17, 1999 and an Extension of Time to obtain a Certificate of Occupancy which expired on May 8, 2000.

PREMISES AFFECTED – 3740 Broadway, northeast corner of West 155th Street, Block 2114, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES –

For Applicant: Patrick Gorman.

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 December 16, 2008, at 10 A.M., for decision, hearing closed.

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

APPEARANCES –

For Applicant: Sameh M. El-Meniawy.

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 December 16, 2008, at 10 A.M., for decision, hearing closed.

863-48-BZ

APPLICANT – Alfonso Duarte, for Dilip Datta, owner.

SUBJECT – Application September 25, 2008 – Extension of Term of a previously granted variance for a (UG16A) auto repair establishment, in an R-2 zoning district, which will expire on November 25, 2008.

PREMISES AFFECTED – 259-16 Union Turnpike, south east corner of 259th Street, Block 8678, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E.

ACTION OF THE BOARD – Laid over to December 16, 2008, at 10 A.M., for continued hearing.

297-99-BZ

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

SUBJECT – Application October 6, 2008 – Extension of Time to Obtain a Certificate of Occupancy for a (UG16) Gasoline Service Station (Mobil), in a C2-2/R6B zoning district, which will expire on February 12, 2009.

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

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Patrick Gorman.

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 December 9, 2008, at 10 A.M., for decision, hearing closed.

159-07-BZ

APPLICANT – Eric Palatnik, P.C., for Stillwell Sports Center Incorporated, owner; Dolphin Fitness Clubs, lessee.

SUBJECT – Application October 6, 2008 – Extension of Time to complete construction to allow the legalization of a P.C.E. on the second floor of a two story commercial building (Stillwell Sports Center) and an Extension of Time to Obtain a Certificate of Occupancy, in a C8-2 zoning district, which expired on May 27, 2008.

PREMISES AFFECTED – 2402 86th Street, southeast corner of 86th Street and 24th Avenue, Block 6864, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #11BK

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 December 9, 2008, at 10 A.M., for decision, hearing closed.

MINUTES

APPEALS CALENDAR

121-08-A thru 132-08-A

APPLICANT – Philip L. Rampulla, for Rocco Berardi, owner.

SUBJECT – Application April 24, 2008 – Proposed construction of twelve homes not fronting a legally mapped street contrary to General City Law Section 36. R3x (SSRD) Series - 121-08-A thru 132-08-A.

PREMISES AFFECTED – 80, 70, 60, 59, 79, 15, 25, 39, 55, 50, 40, 30, Gallant Loop, Block 6517, Lot 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Philip Rampulla.

ACTION OF THE BOARD – Appeal 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 Staten Island Borough Commissioner, dated April 4, 2008, acting on Department of Buildings Application Nos. 510032224, 510032233, 510032242, 510032251, 510032260, 510032279, 510032723, 510032288, 510032297, 510032304, 510032313, and 510032322, reads in pertinent part:

“The street giving access to proposed construction of a new residential building Use Group 1 in R3X Zoning District is not duly placed on the official map of the City of New York and therefore referred to Board of Standards and Appeals for Approval ; and

WHEREAS, a public hearing was held on this application on November 18, 2008, after due notice by publication in the *City Record*, then to closure and decision on this same date; and

WHEREAS, the developer intends to build twelve single-family detached homes not fronting a legally mapped street; and

WHEREAS, the proposed development is located within the Special South Richmond Development District (SSRD) and the Lower Density Growth Management District (LDGMD), within an R3X zoning district; and

WHEREAS, by letter dated September 18, 2008, the Fire Department states that it has reviewed the subject proposal and advises the Board that it has no objections provided the applicant provides the following: (1) full sprinkler systems in all buildings; (2) “No Parking” zones on both sides of Gallant Loop; and (3) “No Parking- Fire Lane” signs throughout the development; and

WHEREAS, the applicant has provided a site plan showing compliance with the Fire Department’s requested provisions; and

WHEREAS, access to the site is provided by an existing

easement agreement from Arbutus Avenue and Denise Court; and

WHEREAS, the developer has a pending application at the Department of City Planning for subdivision approval pursuant to ZR § 107-08 (Future Subdivisions); and

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

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated April 4, 2008, acting on Department of Buildings Application Nos. 510032224, 510032233, 510032242, 510032251, 510032260, 510032279, 510032723, 510032288, 510032297, 510032304, 510032313, and 510032322, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received September 29, 2008” – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT DOB shall review the proposed plans to ensure that compliance with all relevant provisions of the Zoning Resolution;

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

THAT the applicant shall seek and obtain City Planning Commission approval of the subdivision pursuant to ZR § 107-08 prior to the issuance of building permits;

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, November 18, 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: Fredrick A. Becker.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

MINUTES

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, November 18, 2008.

266-07-A

APPLICANT – Stuart A. Klein, for 1610 Ave S, LLC, owner.

SUBJECT – Application November 21, 2007 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R6 district regulations. R4-1 Zoning District.

PREMISES AFFECTED – 1610 Avenue S, Block 7295, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

APPEARANCES –

For Applicant: Deirdre A. Carson.

ACTION OF THE BOARD – Laid over to December 9, 2008, at 10 A.M., for continued hearing.

191-08-BZY

APPLICANT – Stuart A. Klein, for 1610 Avenue S, LLC, owner.

SUBJECT – Application July 14, 2008 – Extension of time to complete construction (§11-331) of a minor development commenced prior to the amendment of the zoning district regulations. R4-1 Zoning District.

PREMISES AFFECTED – 1610 Avenue S, Block 7295, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Deirdre A. Carson.

ACTION OF THE BOARD – Laid over to December 9, 2008, at 10 A.M., for continued hearing.

229-06-A

APPLICANT – Sheldon Lobel, P.C., for Breezy Point Cooperative, Incorporated, owner; Thomas Carroll, lessee.

SUBJECT – Application September 6, 2006 – Appeal seeking to revoke permits and approvals for the reconstruction and enlargement of an existing one family dwelling which creates new non-compliances, increases the degree of existing non-compliances with the bulk provisions of the Zoning Resolutions and violates provisions of the Building Code, regarding access and fire safety. R4 – Zoning District.

PREMISES AFFECTED – 607 Bayside Drive, Adjacent to service road, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Irving Minkin.

For Opposition: Janine Gaylar, Department of Buildings;

Kevin L. Smith, Arthur Lighthall and Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to January 13, 2009, at 10 A.M., for decision, hearing closed.

140-07-A

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Breezy Point Cooperative, Incorporated, owner; Thomas Carroll, lessee.

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

PREMISES AFFECTED – 607 Bayside Drive, Adjacent to service road, Block 16350, Lot 300, 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 January 13, 2009, at 10 A.M., for decision, hearing closed.

39-07-A thru 40-07-A

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

SUBJECT – Application February 2, 2007 – Proposed construction of two, 3 story, 3 family homes located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

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

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Jordan Most.

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 December 9, 2009, at 10 A.M., for decision, hearing closed.

251-07-A thru 254-07-A

APPLICANT – Eric Palatnik, P.C., for Willow/Houston, LLC, owner.

SUBJECT – Application November 2, 2007 – Appeal

MINUTES

seeking a determination that the owner has acquired a common law vested right to continue development under the prior R3A zoning district. R3X zoning district.

PREMISES AFFECTED – 63/65 Houston Street and 104/106 Willowbrook Road, Block 1478, Lots 542, 543, 150 & 151, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: James E. Smith and Kevin Hunt.

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 December 16, 2008, at 10 A.M., for decision, hearing closed.

34-08-A

APPLICANT – Kevin Christopher Shea, for Neighbors Allied for Good Growth (“NAG”) and People’s Firehouse, Inc. (“PFI”).

OWNER: North Seven Associates LLC

SUBJECT – Application February 20, 2008 – Appeal seeking to revoke permit and approvals that allow the construction of a sixteen story building in violation of ZR §23-142 and ZR §12-10 which fails to provide adequate open space on the zoning lot to support the Building's floor area.

PREMISES AFFECTED – 144 North 8th Street, south side of North 8th Street, 100’ east of Berry Street, Block 2319, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Kevin Shea and Peter Gillespie.

For Opposition: Peter Geis and Howard Hornstein.

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 December 9, 2009, at 10 A.M., for decision, hearing closed.

70-08-A thru 72-08-A

APPLICANT – Eric Palatnik, P.C., for TOCS Developers, Inc., owner.

SUBJECT – Application April 1, 2008 – An appeal seeking a determination that the property owner has acquired a common law vested right to continue construction commenced under the prior Zoning district regulations. R3A Zoning District.

PREMISES AFFECTED – 215C, 215B, 215A Van Name Avenue, north of the corner formed by intersection of Forest Avenue, Block 1194, Lot 42, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to December 16, 2008, at 10 A.M., for continued hearing.

73-08-A thru 75-08-A

APPLICANT – Eric Palatnik, P.C., for S.B. Holding, owner. SUBJECT – Application April 1, 2008 – An appeal seeking a determination that the property owner has acquired a common law vested right to continue construction under the prior district regulations. R3A zoning district.

PREMISES AFFECTED – 354 Van Name, northeast of the corner formed by the intersection of Van Name and Forest Avenue, Block 1198, Lots 42, 43, 44, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to December 16, 2008, at 10 A.M., for continued hearing.

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

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to December 16, 2008, at 10 A.M., for postponed hearing.

168-08-A

APPLICANT – Cozen O’Connor Attorneys, for South Brighton Development, LLC, owner.

SUBJECT – Application June 24, 2008 – Legalization of an existing building not fronting on a legally mapped street contrary to General City Law Section 36. R6(OP) zoning district.

PREMISES AFFECTED – 63 Brighton 2nd Place, east side of Brighton 2nd Place, 110’ north of Brighton 2nd Lane, Block 8662, Lot 157, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Peter Geis and Howard Hornstein.

ACTION OF THE BOARD – Laid over to December 16, 2008, at 10 A.M., for continued hearing.

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60-08-A

APPLICANT – Eric Palatnik, P.C., for F & Z Properties, owners.

SUBJECT – Application March 21, 2008 – Proposed construction of a four Story Community Facility located within the bed of a mapped street (102nd Street) contrary to General City Law Section 35. R6B (C1-4) zoning district. PREMISES AFFECTED – 101-20 39th Avenue (formerly 101-20, 101-22 & 101-24 103rd Street, between 102nd and 103rd Streets, Block 1770, Lot 22, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to January 13, 2009, at 10 A.M., for continued hearing.

231-08-A

APPLICANT – Gerard E. Meyer, for Breezy Point Cooperative Inc., owner; Stephen D’Antonio, lessee.

SUBJECT – Application September 9, 2008 – Reconstruction and enlargement of an existing single family home not fronting on a legally mapped street contrary to General City Law Section 36. R4 zoning. PREMISES AFFECTED – 118 Beach 221st Street, southwest side of Beach 221st Street, 320’ southeast of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to December 16, 2008, at 10 A.M., for postponed hearing.

Jeffrey Mulligan, Executive Director

Adjourned: 10:15 A.M.

REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 18, 2008

1:30 P.M.

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

ZONING CALENDAR

51-07-BZ

CEQR #07-BSA-063Q

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

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

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

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Irving Minkin.

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 Superintendent, dated January 22, 2007, acting on Department of Buildings Application No. 402507060 reads in pertinent part:

“Proposed commercial use is not permitted as-of-right in an R4 zoning district. This is contrary to ZR 22-10;” and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R4 zoning district, the construction of a one-story commercial building (Use Group 6) with accessory parking which does not conform to district use regulations, contrary to ZR § 22-10; and

WHEREAS, a public hearing was held on this application on February 5, 2008, after due notice by publication in *The City Record*, with continued hearings on April 15, 2008, August 19, 2008, and October 7, 2008, and then to decision on November 18, 2008; and

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

WHEREAS, Community Board 8, Queens, recommends disapproval of an earlier iteration of this application; and

WHEREAS, the proposed building will have one story and a cellar with a total floor area of 6,928 sq. ft., an FAR of

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0.70, a height of 15'-6", and 27 accessory parking spaces; and

WHEREAS, the subject premises is located within an R4 zoning district on the northwest corner of Kissena Boulevard and 70th Road, and

WHEREAS, the site has a parallelogram shape, with 99'-3" of frontage on Kissena Boulevard and approximately 104'-0" of frontage on 70th Road extending to a depth of approximately 103'-0"; and

WHEREAS, the site is currently vacant and has a lot area of 9,921 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 18, 1932, when, under BSA Cal. No. 528-31-BZ, the Board granted a variance to permit the construction and maintenance of a gasoline service station; such variance lapsed in 2000 although the use continued until 2006; and

WHEREAS, the applicant initially proposed a one-story building with a height of 20'-0" -8", a total commercial floor area of 7,438 sq. ft. (0.63 FAR), and five parking spaces; and

WHEREAS, the applicant subsequently provided another iteration of the plans which added a second floor for a conforming community facility use, increased the height to 24'-0" and the commercial/community facility floor area to 13,856 sq. ft., and provided 27 parking spaces; and

WHEREAS, the applicant now proposes a one-story commercial building with a streetwall and total height of 15'-6", a total commercial floor area of 6,928 sq. ft. (0.70 FAR) and 27 parking spaces; and

WHEREAS, the applicant states that the proposed first floor will be occupied by five retail stores; the cellar will be occupied by the 27 accessory parking spaces; and

WHEREAS, the applicant represents that the site does not qualify as a predominately built-up area pursuant to ZR § 12-10 and therefore does not qualify for the infill options for predominately built-up areas; and

WHEREAS, as noted above, the proposed building requires a use waiver; thus, the instant variance application was filed; and

WHEREAS, the applicant states that the following unique physical conditions create unnecessary hardship and practical difficulties in developing the site with a complying development: (1) the site's soil prior contamination; (2) the site's location on a heavily-traveled arterial road; and (3) a deed restriction that limits the site's development potential; and

WHEREAS, the applicant represents that the site was in constant use for automotive uses from approximately 1934 until 2006; and

WHEREAS, the Board notes that the prior approved use of the site for automotive uses predates the enactment of modern environmental standards and regulations; and

WHEREAS, the applicant states that the soil was contaminated and required extensive remediation due to the history of automotive-related uses at the site; and

WHEREAS, a Phase 1 Environmental Assessment indicated that underground storage tanks, piping and

associated gasoline/ waste oil equipment be closed and removed from the site and contaminated soil removed; and

WHEREAS, the site remediation specifically included: (1) excavation and removal of nine gasoline and waste oil tanks; (2) loading and disposal of all impacted soils within the zone of contamination in accordance with New York State Department of Environmental Conservation approved procedures; (3) residual waste disposal; (4) post-excavation sample collection and analysis; (5) backfilling the excavation; and (6) groundwater sampling; and

WHEREAS, the applicant has documented more than \$340,000 in premium costs associated with the remediation of the site; and

WHEREAS, the applicant states that expense of remediating the site's contaminated conditions impeded its development for a conforming residential or community facility use; and

WHEREAS, as to its location, the applicant states that the site is located on a major arterial roadway providing access to Long Island, which is lined with commercial uses and local service establishments; and

WHEREAS, the applicant further states that the site is directly north of a C1-2 zoning district at 71st Avenue along Kissena Boulevard; and

WHEREAS, the applicant represents that the heavy incidence of traffic and the preponderance of commercial uses limits the marketability of a complying residential development which would front on Kissena Boulevard; and

WHEREAS, the premises are also subject to a deed restriction requiring: (a) an open area with a width of 30'-0" along the westerly lot line; and (b) a height restriction of 30'-0" for residences and 25'-0" for non-residences; and

WHEREAS, the applicant represents that compliance with both the deed restrictions and the zoning requirements would limit a residential development to three three-story row houses with a total of eight dwelling units and a total floor area of 8,902 sq. ft., and that such a restriction constitutes a unique physical condition constraining an as-of-right development; and

WHEREAS, the applicant cites to the decision in *Thompson v. Curcio* (154 A.D.2d 602 (2d Dep't 1989) in support for the proposition that a deed restriction assumed by a predecessor in title can represent a hardship warranting a variance; and

WHEREAS, the Board notes that *Thompson* concerned a property that was undersized and undevelopable due to a partial condemnation by New York State, for which the compensation was inadequate to cover the loss of all development rights; the variance application was filed by the children of the former owner who had inherited the property upon her death; and

WHEREAS, the Board finds that *Thompson* is inapplicable to the instant case, in which the owner purchased the property assumedly with knowledge of the deed restriction at a market value that ought to have reflected its reduced development potential; and

WHEREAS, based upon the above, the Board finds that the premium costs associated with the site's environmental

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remediation, when considered in the aggregate with the site's location on a busy thoroughfare with many commercial uses, creates unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study which analyzed two as-of-right alternatives: (i) a development consisting of four two-family rowhouses with a total floor area of 8,318 sq. ft.; and (ii) a three-story community facility building with 19,713 sq. ft. of floor area and 40 accessory parking spaces; and (iii) an alternative that complies with the zoning requirements, as well as with the deed restriction, consisting of three three-story townhouses with eight dwelling units; and

WHEREAS, the study concluded that none of three scenarios would realize a reasonable return; and

WHEREAS, the proposed project, as modified, would realize a reasonable return; and

WHEREAS, based upon 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 conformance with zoning district regulations will provide a reasonable return; and

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

WHEREAS, the applicant states bulk and height of the proposed building comply with the R4 and C1-2 zoning parameters; and

WHEREAS, the applicant represents that the surrounding area is characterized by a preponderance of multi-family residential buildings with FARs ranging from 0.77 to 1.6, and an abundance of commercial uses; and

WHEREAS, a radius diagram submitted by the applicant indicates that there is a commercial overlay along Kissena Boulevard between 70th Road and 71st Avenue directly across from the subject site; and

WHEREAS, the applicant states that a commercial building is currently under construction on Kissena Boulevard directly to the south of the subject site and that an existing commercial building occupies another corner of the intersection; and

WHEREAS, further, photographs submitted by the applicant depict commercial buildings located directly across from the subject site; and

WHEREAS, additionally, the Board directed the applicant to relocate the trash collection site and exterior lighting away from residences; and

WHEREAS, in response, the applicant submitted revised plans relocating the trash collection site and redirecting exterior lighting; and

WHEREAS, the Board also notes that the façade of the proposed development was redesigned to better integrate it within the surrounding residential neighborhood; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the

surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the site's pre-existing contaminated subsoil condition, and heavily trafficked location; and

WHEREAS, the Board notes that an interim proposal by the applicant provided for a two-story building with a height of 24'-0" and a total commercial/community facility floor area of 13,856 sq. ft.; and

WHEREAS, during the hearing process, the applicant modified the proposal to eliminate the second floor, to reduce the building height and the floor area; and

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

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

WHEREAS, on June 6, 2007, DEC signed off on the environmental cleanup performed at the site; and

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

Therefore it is Resolved, that the Board of Standards and Appeals adopts DCP's Negative Declaration under Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R4 zoning district, the proposed construction of a one-story and cellar commercial building, which does not conform with applicable zoning use regulations, contrary to ZR § 22-10; *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 October 30, 2008"- (5) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a total floor area of 6,928 sq. ft., an FAR of 0.70, a height of 15'-6", and 27 accessory parking spaces, as indicated on the BSA-approved plans;

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

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

THAT construction shall 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, November 18, 2008.

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171-07-BZ

APPLICANT – Sheldon Lobel, P.C., for The Michael J. Tropp 2002 Revocable Trust, owners.

SUBJECT – Application June 18, 2007 – Special Permit (§73-622) to allow the Legalization of an enlargement to a single family residence which exceeds the allowable floor area, lot coverage and less than the minimum open space (§23-141); less than the minimum required rear yard (§23-47) less than the minimum side yards (§23-461) in an R3-1 zoning district. Previous BSA Special Permit (§73-622) 173-99-BZ was dismissed for lack of prosecution on September 24, 2002.

PREMISES AFFECTED –167 Norfolk Street, located on east of Norfolk Street between Shore Boulevard and Oriental Boulevard, Block 8757, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

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, November 18, 2008.

76-08-BZ

CEQR #08-BSA-073Q

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

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 October 27, 2008, acting on Department of Buildings Application No. 402465195, reads in pertinent part:

“Proposed rear yard is contrary to ZR 24-36;” and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R5 zoning district, the legalization of a not-for-profit ambulance/emergency vehicle garage, dispatch center, and training facility (Use Group 4) that does not provide the required rear yard, contrary to ZR § 24-36; and

WHEREAS, this application is brought on behalf of Hatzolah of Far Rockaway (“Hatzolah”), a not-for-profit volunteer emergency ambulance service; and

WHEREAS, a public hearing was held on this application on August 19, 2008, after due notice by publication in *The City Record*, with a continued hearing on September 23, 2008, following which the application was set for decision on October 28, 2008; and

WHEREAS, on October 28, 2008 the decision was deferred and set for November 18, 2008; and

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

WHEREAS, Community Board 14, Queens, recommends approval of the application; and

WHEREAS, the West Lawrence Civic Association and the Jewish Community Council of the Rockaway Peninsula submitted letters in support of this application; and

WHEREAS, the site is located on the west side of Beach 9th Street, between Caffrey Avenue and Hicksville Road, in an R5 zoning district; and

WHEREAS, the site has a total lot area of approximately 4,787 sq. ft.; and

WHEREAS, the site is occupied by a two-story commercial building housing a non-profit ambulance/emergency vehicle garage, dispatch center, and training facility (Use Group 4); and

WHEREAS, the applicant seeks a variance to permit a building with a rear yard of 16’-2” at the second floor to a height of 26’-0” (a rear yard with a minimum depth of 30’-0” is required above the first floor or 23’-0”); and

WHEREAS, the Board notes that the subject site identified as “Lot 15” does not yet exist, and will be created through a subdivision of existing Lot 16; and

WHEREAS, the applicant submitted a partial lot deed and other documentation establishing that the subject site is the subject of a pending application to subdivide Lot 16 and create a separate zoning lot (Tentative Lot 15); and

WHEREAS, the applicant represents that, because the resulting zoning lot will be non-compliant with respect to its rear yard, approval of the lot subdivision is conditioned on approval of the instant application; and

WHEREAS, the applicant states that Hatzolah is a volunteer ambulance/emergency response service which is offered for free to all residents of the neighborhoods it serves; and

WHEREAS, the existing two-story building has a total floor area of approximately 3,381 sq. ft. and an FAR of 0.71 (an FAR of 2.0 is permitted for a community facility use); and

WHEREAS, the first floor is used as a garage for three ambulances, and is occupied by accessory administrative offices and equipment storage; and

WHEREAS, the second floor is occupied by a training

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room; and

WHEREAS, the applicant states that the following are the programmatic needs of Hatzolah: (i) a large training room for New York State Department of Health (“DOH”) emergency medical training, (ii) parking for ambulances, (iii) a storage area for emergency medical equipment, and (iv) office space; and

WHEREAS, in order to meet its programmatic needs, the applicant seeks a variance pursuant to ZR § 72-21; and

WHEREAS, the applicant states that Hatzolah is certified by DOH to provide emergency medical care and emergency support; and

WHEREAS, the applicant further states that Hatzolah is operated by volunteers, comprised of certified emergency medical technicians, paramedics, and medical doctors who are required to complete a DOH training program in emergency medical care, and to be recertified every three years; and

WHEREAS, the applicant represents that the rear yard waiver is necessary to provide a training room that is adequate in size to provide emergency medical training for up to 50 students; and

WHEREAS, the applicant states that the training of volunteers consists of demonstrations and practical tests involving training dummies, stretchers, and emergency medical equipment which requires a substantial amount of space; and

WHEREAS, the applicant represents that complying with the rear yard requirement would reduce the size of the training room by nearly 50 percent, thereby providing an inadequate training area for prospective emergency medical technicians; and

WHEREAS, the applicant states that, in addition to its programmatic needs, the following unique physical condition creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the site’s high water table; and

WHEREAS, as to the site’s water conditions, the applicant states that soil borings indicate that the underground water table was measured to a depth of four feet; and

WHEREAS, the applicant states that the size of the site, and its high water table do not permit the training room to be accommodated below-grade; and

WHEREAS, the applicant represents that because the noted high water table constrains its ability to locate program uses below-grade, in order to accommodate the required program on the upper floors, a waiver of the rear yard requirement is necessary; and

WHEREAS, the Board finds that Hatzolah’s programmatic needs are legitimate, and agrees that the proposed waiver is necessary to address its needs, given the current limitations; and

WHEREAS, accordingly, based upon the above, the Board finds that the unique conditions on the site, namely the high water table, when considered in conjunction with the programmatic needs of Hatzolah, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since Hatzolah is a not-for-profit

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

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

WHEREAS, as to bulk, the applicant states that the subject building has an FAR of 0.71, which is well below the permitted FAR of 2.0 in the subject zoning district; and

WHEREAS, the applicant submitted a 400-foot radius diagram and photographs establishing that the bulk and height of the subject building are consistent with or lower than those of the surrounding neighborhood; and

WHEREAS, the applicant notes that there are several other community facility buildings in the surrounding community, including a three-story Yeshiva that abuts the subject building; and

WHEREAS, the applicant states that the rear yard encroachment is limited to the second floor and extends 13’-10” into the 30’-0” rear yard, from a height of 14’-0” to 26’-0”;

WHEREAS, ZR §24-33 provides a rear yard exemption for a community facility building located within a residence district, allowing the first floor, or up to a height of 23’-0” of the building, to encroach into the rear yard as a permitted obstruction; and

WHEREAS, the Board notes that, although the rear yard exemption does not apply to the second floor, the height of the subject building (26’-0”) is generally within the height allowed as a permanent obstruction (23’-0”); further, the second floor is set back 16’-2” from the rear lot line; and

WHEREAS, the Board further notes that the adjacent lot to the rear, occupied by the Yeshiva, is set back 30’-0” from the common rear lot line; and

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

WHEREAS, the applicant states that the hardship caused by the inability of providing a cellar to accommodate the program based on the high water table was not self-created, and that no development that would meet the programmatic needs of Hatzolah could occur given the existing conditions; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner; and

WHEREAS, the applicant represents that the requested rear yard waiver is the minimum necessary to accommodate Hatzolah’s current and projected programmatic needs; and

WHEREAS, the Board notes that the height and floor area of the subject premises are well below that permitted in the zoning district, that the front yard and side yards meet or exceed the minimum requirements of the district, and that the requested relief is limited to the rear yard encroachment on the

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second floor; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Sections 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. 08BSA073Q, dated March 27, 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, 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 the required findings under ZR § 72-21 to permit, in an R5 zoning district, the legalization of a two-story ambulance/emergency vehicle garage, dispatch center, and training facility (Use Group 4), which is contrary to ZR § 24-36, *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 25, 2008," – (5) sheets; and *on further condition*:

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

THAT the building parameters shall include a rear yard depth of 16'-2" at the second floor, as reflected on the BSA-approved plans;

THAT the use shall be limited to an ambulance/emergency vehicle garage, dispatch center, and training facility (Use Group 4);

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

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

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

THAT development shall 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, November 18, 2008.

158-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Kay Robyn Askenazi and Shay Ashkenazi, owners.

SUBJECT – Application June 6, 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); less than the minimum side yards (§23-461) and less than the minimum rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1814 East 27th Street, west side of East 27th Street, between Avenue R and Avenue S, Block 6832, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

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 6, 2008, acting on Department of Buildings Application No. 310129624, reads in pertinent part:

“The proposed enlargement of the existing one family residence in an R3-2 zoning district:

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to section 23-141 of the Zoning Resolution.
2. Creates non-compliance with respect to the lot coverage and open space and is contrary to section 23-141 of the Zoning Resolution.
3. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of section 23-461 of the Zoning Resolution.
4. Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of section 23-47 of the Zoning Resolution.
5. Creates non-compliance with respect to perimeter wall height by exceeding the

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permitted maximum height of section 23-631 of the Zoning Resolution;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side yards, rear yard, and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-47, and 23-631; and

WHEREAS, a public hearing was held on this application on September 9, 2008, after due notice by publication in *The City Record*, with a continued hearing on October 7, 2008, and then to decision on November 18, 2008; and

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

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

WHEREAS, representatives of the Madison-Marine-Homecrest Civic Association provided testimony in opposition to the proposal; and

WHEREAS, other neighborhood residents also testified in opposition to the proposal; and

WHEREAS, the subject site is located on the west side of East 27th Street, between Avenue R and Avenue S; and

WHEREAS, the subject site has a total lot area of 3,000 sq. ft., and is occupied by a single-family home with a floor area of 1,679 sq. ft. (0.56 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 1,679 sq. ft. (0.56 FAR) to 3,211 sq. ft. (1.07 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement provides 46 percent of lot coverage (a maximum of 35 percent is permitted) and 54 percent of open space (a minimum of 65 percent is required); and

WHEREAS, the proposed enlargement maintains the existing non-complying side yard along the northern lot line with a width of 2'-8" (a minimum width of 5'-0" is required); and

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

WHEREAS, the proposed enlargement provides a perimeter wall height of 22'-1" (a maximum perimeter wall height of 21'-0" is permitted)

WHEREAS, the Board requested the applicant to establish that the increased height of the perimeter wall of the proposed enlargement is equal to or less than the height of the perimeter wall of the adjacent building; and

WHEREAS, in response, the applicant submitted a survey demonstrating that the perimeter wall height of the proposed home is consistent with that of the adjacent

residence; and

WHEREAS, at hearing, a representative of the Madison-Marine-Homecrest Civic Association questioned whether a recently adopted text amendment to the Zoning Resolution affected the ability of the Board to waive the 30'-0" minimum rear yard requirement; and

WHEREAS, the Board notes that the text amendment was not incorporated within ZR § 73-622, and therefore has no effect on the instant application; and

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

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side yards, rear yard, and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-47, and 23-631; *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 29, 2008"-(11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a total floor area of 3,211 sq. ft. (1.07 FAR); lot coverage of 46 percent; an open space of 54 percent; one side yard with a width of 2'-8" along the northern lot; a rear yard with a minimum depth of 20'-0"; and a perimeter wall height of 22'-1", 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 DOB shall review and approve compliance with the planting requirements under ZR § 23-451;

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

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

Adopted by the Board of Standards and Appeals, November 18, 2008.

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 – 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, November 18, 2008.

189-08-BZ

CEQR #09-BSA-008M

APPLICANT – The Law Office of Fredrick A. Becker, for Broadway Mercer Associates, owner; TSI Mercer Street, LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application July 14, 2008 – Special Permit (§73-36) to allow the legalization of a Physical Culture Establishment in the cellar, first and second floors in the six-story mixed-use building. The proposal is contrary to ZR Section 32-10. C6-2 district.

PREMISES AFFECTED – 232 Mercer Street, Easterly side of Mercer Street 220' north of Blecker Street. Block 532, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Lyra J.Altman.

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 Manhattan Borough Commissioner, dated June 13, 2008, acting on Department

of Buildings Application No. 104148165, reads in pertinent part:

“ZR 32-10. Proposed physical culture establishment is not permitted as-of-right in C6-2 District;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-2 zoning district within the NoHo Historic District, the legalization of a physical culture establishment (PCE) within two mixed-use commercial/residential buildings, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on October 7, 2008, after due notice by publication in *The City Record*, and then to decision on November 18, 2008; and

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

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site occupies a through lot located on the east side of Broadway and the west side of Mercer Street between Bleecker Street and West 3rd Street; and

WHEREAS, the site is occupied by two mixed-use commercial/residential buildings: an eight-story building and a twelve-story building; and

WHEREAS, the PCE occupies a total of approximately 25,286 sq. ft. of floor area on the cellar, first floor, and second floor of each building; and

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

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, and aerobics; and

WHEREAS, the site is located within the NoHo Historic District; the applicant represents that the use is compatible with the commercial and residential uses in the surrounding area; and

WHEREAS, the hours of operation of the PCE are: Monday through Friday, from 5:00 a.m. to 11:00 p.m.; Saturday, from 6:00 a.m. to 10:00 p.m.; and Sunday, from 7:00 a.m. to 8:00 p.m.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 2, 1999 when, under BSA Cal. No. 7-97-BZ, the Board granted a special permit under ZR § 73-36 to allow the legalization of an existing PCE occupying the cellar, first and second floors of the subject premises, to expire on February 28, 2006; and

WHEREAS, the Board modified the original grant by letter in 2005, to allow a small enlargement of the previously improved space; and

WHEREAS, the applicant represents that the subject premises have been in continuous operation as a PCE since the lapse of the prior special permit on February 28, 2006; and

WHEREAS, the Board notes that the previously

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approved special permit lapsed more than two years ago, therefore a new special permit is required; and

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

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; 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, CEQR No.09BSA008M, dated October 2, 2008; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-2 zoning district within the NoHo Historical District, the legalization of a physical culture establishment occupying the cellar, first and second floors of an eight-story mixed-use commercial/residential building and a twelve-story mixed-use commercial/residential building, contrary to ZR § 32-10, *on condition* that all work shall substantially conform to

drawings filed with this application marked "Received July 14, 2008"- (4) sheets; and *on further condition*:

THAT the term of this grant shall expire on November 18, 2018;

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

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

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

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

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

THAT prior to the issuance of any permits, DOB shall review the floor area and location of the PCE for compliance with all relevant commercial use regulations;

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

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

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

Adopted by the Board of Standards and Appeals, November 18, 2008.

214-08-BZ

APPLICANT – Harold Weinberg, for Yossi Cohen, owner.
SUBJECT – Application August 19, 2008 – Special Permit (§73-622) for the enlargement of an existing family residence. This application seeks to vary floor area, lot coverage and open space (§23-141); less than the minimum side yard (§23-461) and less than minimum required rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1855 East 24th Street, east side 305' north of Avenue S between Avenue R and Avenue S, Block 6830, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg, P.E. and Frank Sellitto, R.A.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated August 29, 2008, acting on

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Department of Buildings Application No. 310169411, reads in pertinent part:

“The proposed enlargement of the existing two-family residence in an R3-2 zoning district:

1. Increases the degree of non-compliance with respect to floor area ratio and the maximum permitted floor area by exceeding the allowable floor area ratio and is contrary to sections 23-141 and 54-31 of the Zoning Resolution;
2. Increases the degree of non-compliance with respect to open space and is contrary to sections 23-141 and 54-31;
3. Increases the degree of non-compliance with respect to one side yard and is contrary to sections 23-461 and 54-31;
4. Increases the degree of non-compliance with respect to lot coverage and is contrary to sections 23-141 and 54-31;
5. Reduces the rear yard below 30’-0” and is contrary to section 23-47 ZR;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of an existing two-family residence, to be converted into a single-family home which does not comply with the zoning requirements for floor area, FAR, open space, lot coverage, side yards and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on October 7, 2008, after due notice by publication in *The City Record*, and then to decision on November 18, 2008; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Ottley-Brown and Commissioner Montanez; and

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

WHEREAS, the subject site is located on the west side of East 24th Street, between Avenue R and Avenue S; and

WHEREAS, the subject site has a total lot area of 3,000 sq. ft., and is occupied by a two-family residence with floor area of 2,431 sq. ft. (0.81 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 2,431 sq. ft. (0.81 FAR) to 3,216 sq. ft. (1.07 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement provides approximately 56 percent of open space (a minimum of 65 percent is required) and approximately 44 percent of lot coverage (a maximum of 35 percent is permitted); and

WHEREAS, the proposed enlargement maintains the existing non-complying side yard along the northern lot line with a width of 2’-11” (a minimum width of 5’-0” is required); and

WHEREAS, the proposed enlargement provides a rear yard with a depth of 20’-0” (a minimum rear yard of 30’-0”

is required); and

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

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a two-family residence, to be converted into a single-family home which does not comply with the zoning requirements for floor area, FAR, open space, lot coverage, side yards and rear yard, contrary to ZR §§ 23-141, 54-31, 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 19, 2008”-(2) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a total floor area of 3,216 sq. ft. (1.07 FAR); an open space of approximately 56 percent; lot coverage of approximately 44 percent; one side yard with a width of 2’-11” along the northern lot line; and a rear yard with a minimum depth of 20’-0”, as illustrated on the BSA-approved plans;

THAT DOB shall review and approve compliance with the planting requirements under ZR § 23-451;

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, November 18, 2008.

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11-07-BZ

APPLICANT – Dominick Salvati and Son Architects, for Joseph Giahn, owner.

SUBJECT – Application January 9, 2007 – Variance (§72-21) to allow a five (5) story office building with ground floor retail, contrary to use regulations (§22-00). R6B district.

PREMISES AFFECTED – 41-06 Junction Boulevard, south west corner formed by Junction Boulevard and 41st Avenue, Block 1598, Lots 7 & 8, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Peter Hirshman.

ACTION OF THE BOARD – Laid over to January 13, 2009, at 1:30 P.M., for adjourned hearing.

205-07-BZ

APPLICANT – Omnipoint Communications Inc., for Joseph Wroblewski, owner; Omnipoint Communications, Inc., lessee.

SUBJECT – Application August 20, 2007 – Special Permit (§73-30) to allow a non-accessory radio tower on the rooftop of an existing building. The tower will be disguised as a 25' flagpole. The site is located in an R4-1 zoning district.

PREMISES AFFECTED – 53-20 72nd Place, west side of the intersection of 53rd Road and 72nd Place, Block 2506, Lot 52, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Robert Gardioso.

For Opposition: Manny Carvana, Mike Armstrong, June Osman, Peggy Vitalo, Tony Nunziatto and Walter Sanchez..

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 December 16, 2008, at 10 A.M., for decision, hearing closed.

46-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Congregation Adas Yereim, owner.

SUBJECT – Application February 15, 2008 – Variance (§72-21) to permit the construction of a community facility building. The proposals contrary to sections 24-11 (Floor area ratio and lot coverage) and 24-522 (front wall height, setback, sky exposure plane and number of stories). R6 district.

PREMISES AFFECTED – 491 Bedford Avenue, 142 Clymer Street, southwest corner of Bedford Avenue and Clymer Street, Block 2173, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to December 16, 2008, at 1:30 P.M., for continued hearing.

61-08-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 429-441 86th Street, LLC, owner; TSI Bay Ridge 86th Street, LLC dba New York Sports Club, lessee.

SUBJECT – Application March 25, 2008 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment on the second and third floors of an existing building. The proposal is contrary to ZR §32-10. C4-2A (BR) district.

PREMISES AFFECTED – 439 86th Street, north side of 86th Street and east of 4th Avenue, Block 6035, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to January 13, 2009, at 1:30 P.M., for continued hearing.

155-08-BZ

APPLICANT – Eric Palatnik, P.C., for Arkadiy Kofman, owner.

SUBJECT – Application June 3, 2008 – Special Permit (§73-622) for the enlargement of an existing two family home to be converted to a one family home. This application seeks to vary floor area, open space and lot coverage (§23-141(a)); less than the minimum required rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 282 Beaumont Street, south of Oriental Boulevard, Block 8739, Lot 71, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Scott Kurland, Judith Baron and Samuel Falack.

ACTION OF THE BOARD – Laid over to December 16, 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.

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For Opposition: Jennifer Polovetsky and Raul Velazques.
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 December
16, 2008, at 10 A.M., for decision, hearing closed.

172-08-BZ

APPLICANT – Mitchell A. Korbey, Esq., for Sunnyside
Jewish Center, owners.

SUBJECT – Application June 27, 2008 – Variance (§72-21)
to permit the conversion of an existing two-story residential
building to a house of worship. The proposal is contrary to
ZR Section 24-35 (a) (Side yards). R5 district.

PREMISES AFFECTED – 40-20 47th Avenue, aka 4702-
4710 41st Street, southwest corner of 47th Avenue and 41st
Street, Block 198, Lot 36, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Eldad Gothelf.

For Administration: Regina Liang.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to January
13, 2009, at 10 A.M., for decision, hearing closed.

188-08-BZ

APPLICANT – Rizzo Group, for Hotel Carlyle Owners
Corp., owners; The Hotel Carlyle, lessee.

SUBJECT – Application July 14, 2008 – Special Permit
(§73-36) and Variance (§72-21) to allow the legalization of
a Physical Culture Establishment and to extend this use into
an R8B district for the subject hotel which exists in the C5-
1MP and R8B zoning districts. The proposal is contrary to
ZR Section 32-10.

PREMISES AFFECTED – 35 East 76th Street, (975-983
Madison; 981 Madison; 35-53 East 76th Street) northeast
corner of Madison Avenue and East 76th Street, Block 1391,
Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Kenneth Barbina.

ACTION OF THE BOARD – Laid over to January
13, 2009, at 1:30 P.M., for postponed hearing.

199-08-BZ

APPLICANT – Rizzo Group, LLP, for Acadia PA East
Fordham Acqustns, LLC, owners; 24 Hour Fitness USA,
Inc., lessee.

SUBJECT – Application July 28, 2008 – Special Permit

(§73-36) to allow the operation of a physical culture
establishment on the third floor in an existing 14-story
mixed-use building. The proposal is contrary to ZR §32-10.
C4-4 district.

PREMISES AFFECTED – 400 East Fordham Road (aka
2506-2526 Webster Avenue/4747-4763 Park Avenue).
Block 3033, Lot 12, Borough of Bronx.

COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant:

For Opposition:

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 December
9, 2008, at 10 A.M., for decision, hearing closed.

224-08-BZ

APPLICANT – Omnipoint Communications Inc., for
Remzija Suljovic, Rizo Muratovic, Brahim Muratovic,
owners; Omnipoint Communications Inc., lessee.

SUBJECT – Application August 29, 2008 – Special Permit
(§73-30) to allow an extension to an existing non-accessory
radio tower, to mount nine small panel antennas and related
equipment cabinets on the rooftop.

PREMISES AFFECTED – 47-10 Laurel Hill Boulevard,
south side of Laurel Hill Boulevard, bounded by 47th Street,
to the west and 48th Street to the east, Block 2305, Lot 22,
Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Robert Gardioso.

ACTION OF THE BOARD – Laid over to December
9, 2008, at 1:30 P.M., for continued hearing.

225-08-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Lewis
Sternlicht, owner.

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

PREMISES AFFECTED – 1155 East 24th Street, between
Avenue K and Avenue L, Block 7624, Lot 22, Borough of
Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik, Lewis Garfinkel and Esther
Schlosser.

For Opposition: Michael Marcus and Janet Marcus.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins,

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Commissioner Ottley-Brown, Commissioner Hinkson and
Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to December
16, 2008, at 10 A.M., for decision, hearing closed.

230-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for A
and B Bistricher, LLC, by Elsa Bistricher, owner.

SUBJECT – Application September 5, 2008 – Special
Permit (§73-622) for the enlargement of an existing single
family residence. This application seeks to vary floor area
and open space (§23-141); and less than minimum rear yard
requirement (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1019 East 23rd Street, East side
of 23rd Street between Avenue J and Avenue K, Block 7605,
Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to December
16, 2008, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: 4:30 P.M.