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AND APPEALS

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DOCKET

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201-08-BZ

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203-08-BZ

1245 East 23rd Street, Located on the east side of East 23rd Street between Avenue L and Avenue M., Block 7641, Lot(s) 26, Borough of **Brooklyn, Community Board: 14.** Special Permit (73-622) for the enlargement of an existing two family residence to be converted to a single family residence. This application seeks to vary open space and floor area (23-141); side yards (23-461) and less than the minimum rear yard (23-47).

204-08-A

26 Roosevelt Walk, West side of Roosevelt Walk 488.46' south of the mapped Oceanside Avenue., Block 16350, Lot(s) p/o 400, Borough of **Queens, Community Board: 14.** Reconstruction and enlargement of an existing single family home located within the bed of mapped street contrary to General City Law Section 35. R4 Zoning District.

205-08-A

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206-08-BZ

737 Elvira Avenue, Southeastern side of Elvira Avenue between Reads Lane and Annapolis Street., Block 15578, Lot(s) 8, Borough of **Queens, Community Board: 14.** Variance to permit the enlargement of an existing yeshiva, contrary to use regulations.

207-08-BZ

40-69 94th Street, Northern corner of the intersection formed by 41st Avenue and 94th Street., Block 1587, Lot(s) 1, Borough of **Queens, Community Board: 7.** Variance to permit an enlargement of a day care center, contrary to bulk regulations.

208-08-BZ

2117-2123 Avenue M, Northwest corner of Avenue M and East 22nd Street, Block 7639, Lot(s) 1 & 3 (tent 1), Borough of **Brooklyn, Community Board: 14.** Special Permit (73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space ratio (23-141) and less than the minimum side yard (23-461) in an R-2 zoning district.

209-08-A

184-198 10th Street, Brooklyn, New York 11215, Block 1014, Lot(s) 43,44, Borough of **Brooklyn, Community Board: 6.** Application to modify Certificate of Occupancy to permit the Fire Department to require additional fire protection (automatic Wet sprinkler) throughout the entire commercial structure under the authority of Section 27-426 of the Administrative Code.

210-08-BZ

130-15 89th Road, North side of 89th Road, approximately 125 feet east of 130th Street., Block 9338, Lot(s) 147, Borough of **Queens, Community Board: 9.** Variance to allow the conversion and enlargement of an existing community facility, contrary to use regulations.

211-08-A

434 Oceanside Avenue, North side of Oceanside Avenue at the intersection of mapped Beach 211th Street., Block 16350, Lot(s) p/o 400, Borough of **Queens, Community Board: 14.** 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 disposals.

212-08-A

131 Second Place, Northwest corner of Second Place and Smith Street., Block 459, Lot(s) 24, Borough of **Brooklyn, Community Board: 6.** Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior zoning district regulations. R6 zoning district.

DOCKET

213-08-A

68 Hillside Avenue, South side of Hillside Avenue 172.10 east of mapped Beach 178th Street., Block 16340, Lot(s) 50, Borough of **Queens, Community Board: 14**. Proposed reconstruction and enlargement of an existing single family home located in the bed of a mapped street and not fronting on a mapped street contrary to General City Law Section 36. R4 Zoning.

214-08-BZ

1855 East 24th Street, East side 305'0" north of Avenue S between Avenue R and Avenue S., Block 6830, Lot(s) 64, Borough of **Brooklyn, Community Board: 15**. 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 R.

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

CALENDAR

SEPTEMBER 16, 2008, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 16, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

182-85-BZ

APPLICANT – Dominick Salvati & Son Architects, for Salvatore Meeina, owner.
SUBJECT – Application November 19, 2007 – Extension of Term/Waiver of a previously granted Variance (§72-21) for a one story building for the storage of commercial vehicles for a (UG16) contractor's establishment (Fox Glass), in an R6B zoning district, which expired on September 9, 2006.
PREMISES AFFECTED – 206-08 20th Street, between 4th and 5th Avenue, Block 640, Lots 21 & 22, Borough of Brooklyn.

COMMUNITY BOARD #7BK

183-85-BZ

APPLICANT – Dominick Salvati & Son Architects, for Salvatore Meeina, owner.
SUBJECT – Application November 9, 2007 – Extension of Term/waiver of a previously granted Variance (§72-21) for the operation of a (UG16) open storage yard for building materials and accessory parking for four cars with an accessory office and showroom building, in an R6B zoning district, which expired on November 18, 2006.
PREMISES AFFECTED – 206-08 20th Street, between 4th and 5th Avenue, Block 640, Lots 21 & 22, Borough of Brooklyn.

COMMUNITY BOARD #7BK

605-86-BZ

APPLICANT – Anthony M. Salvati, Architects, for Bernard Wechsler, owner.
SUBJECT – Application November 19, 2007 – Extension of Term of a Variance (§72-21) previously granted for a (UG4) two story medical office building in an R5B(BR) zoning district which expired on March 31, 2007; an Extension of Time to obtain a Certificate of Occupancy which expired on June 10, 1998 and a Waiver of the rules.
PREMISES AFFECTED – 7606 7th Avenue, southeast corner of 76th Street and 7th Avenue, Block 5953, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEALS CALENDAR

176-08-A

APPLICANT – Gary D. Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Elizabeth Conlon, lessee.
SUBJECT – Application July 7, 2008 – Proposed reconstruction and enlargement of an existing single family dwelling not fronting on a mapped street contrary to General City Law Section 36. R4.

PREMISES AFFECTED – 105 Beach 217th Street, east side Beach 217th Street, 80' south of Breezy Point Boulevard, Block 16450, p/o Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

SEPTEMBER 16, 2008, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 16, 2008, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

178-07-BZ

APPLICANT – Dominick Salvati and Son Architects, for Bronx Jewish Boys, owners.

SUBJECT – Application July 12, 2007 – Variance (§72-21) to permit the proposed seven-story residential building above the existing three-story community facility building. The proposal is contrary to residential floor area and FAR and lot coverage (§23-141(b)), number of dwelling units (§23-222), rear yard (§23-47 & §24-36), sky exposure plane and setback, (§23-631(d)), required residential and community facility parking (§25-23 & §25-31). R5 district.
PREMISES AFFECTED – 2261-2289 Bragg Street, 220' north from intersection of Bragg Street and Avenue W, Block 7392, Lot 57, Borough of Brooklyn.

COMMUNITY BOARD #15BK

135-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Fresh Meadows Bukharian Synagogue, Inc. owner.

SUBJECT – Application April 30, 2008 – Variance (§72-21) to permit a one-story and mezzanine synagogue. The proposal is contrary to ZR §24-34 (minimum front yard) and §25-31 (minimum parking requirements). R2 district.

PREMISES AFFECTED – 71-52 172nd Street, northwest corner of the intersection of 73rd Avenue and 172nd Street, Block 6959, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

CALENDAR

157-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Waterfront Owners, LLC, owners.

SUBJECT – Application June 5, 2008 – Variance (§72-21) to permit the proposed seven-story residential building above the existing three-story community facility building. The proposal is contrary to residential floor area and FAR and lot coverage (§23-141(b)), number of dwelling units (§23-222), rear yard (§23-47 & §24-36), sky exposure plane and setback, (§23-631(d)), required residential and community facility parking (§25-23 & §25-31). R5 district. PREMISES AFFECTED – 365 Bay Street, east side of Bay Street between Grant Street and St. Julian Place, Block 488, Lot 71, Borough of Staten Island.

COMMUNITY BOARD #1SI

208-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Desiree Eisenstadt and 2123 Avenue M, LLC, owner.

SUBJECT – Application August 11, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space ratio (§23-141) and less than the minimum side yard (§23-461) in an R-2 zoning district.

PREMISES AFFECTED – 2117-2123 Avenue M, northwest corner of Avenue M and East 22nd Street, Block 7639, Lot 1 & 3 (tent 1), Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, AUGUST 19, 2008
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

467-58-BZ

APPLICANT – Walter T. Gorman, P.E., for ExxonMobil Corporation, owner; Nor-Topia Service Station, lessee.

SUBJECT – Application April 16, 2008 – Extension of Term/waiver for the continued use of a gasoline service station (Exxon Mobil) in an R3-2 zoning district which expired on May 21, 1999.

PREMISES AFFECTED – 172-11 Northern Boulevard, north side blockfront between 172nd Street and Utopia Parkway, Block 5363, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Patrick Gorman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening and an extension of term for the continued use of a gasoline service station, which expired on May 1, 1999; and

WHEREAS, a public hearing was held on this application on June 3, 2008 after due notice by publication in *The City Record*, with a continued hearing on July 15, 2008, and then to decision on August 19, 2008; and

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

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

WHEREAS, the site is located on the north side of Northern Boulevard between 172nd Street and Utopia Parkway, in an R3-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 16, 1958 when, under the subject calendar number, the Board granted a variance to permit the premises to be occupied by a gasoline service station; 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 July 18, 1990 for a term of ten years from the expiration of the prior grant, to expire on December 4, 1999; and

WHEREAS, the applicant has requested a ten-year extension of term; and

WHEREAS, the applicant represents that the delay in bringing an application for an extension of term was partially caused by management changes subsequent to the corporate merger of Exxon/Mobil; and

WHEREAS, at hearing, the Board raised concerns with the site's maintenance and appearance and requested that the applicant provide a solid PVC fence to replace a deteriorated portion of existing masonry wall at the northeast corner of the property; and

WHEREAS, in response, the applicant provided revised plans indicating a new 7'-0" high PVC fence to replace the deteriorated masonry wall; and

WHEREAS, at hearing, the Board requested that the applicant provide a narrative of the remediation efforts regarding New York State Department of Environmental Conservation ("DEC") Spill No. 0009063; and

WHEREAS, in response, the applicant provided a description of the Revised Remediation Action Plan for Spill No. 0009063 and the associated DEC monitoring plan; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated December 16, 1958, so that as amended this portion of the resolution shall read: "to extend the term for ten years from December 4, 1999, to expire on December 4, 2009, and to grant a period of one year to obtain a certificate of occupancy, to expire on August 19, 2009; *on condition* that all use and operations shall substantially conform to plans filed with this application marked "Received April 16, 2008"-(4) sheets and "July 27, 2008"-(2) sheets; and *on further condition*:

THAT the term of the grant shall expire on December 4, 2009;

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

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

THAT landscaping shall be maintained as shown on the BSA-approved plans;

THAT the site shall be well-maintained;

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

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

Adopted by the Board of Standards and Appeals August 19, 2008.

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826-86-BZII

APPLICANT – Eric Palatnik, P.C., for North Shore Towers Apartment Incorporated, owner; Continental Communications, lessee.

SUBJECT – Application May 9, 2008 – Extension of Term for a Special Permit (§73-11), in an R3-2 zoning district, to permit the non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story multiple dwelling which expired on March 28, 2008; Extension of Time to obtain a Certificate of Occupancy which expired on March 6, 2003; waiver of the rules and an Amendment to legalize additional transmitting equipment on the roof and to eliminate the condition that a new Certificate of Occupancy be obtained.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 8489, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application dismissed for lack of prosecution

THE VOTE TO DISMISS –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application seeking a waiver of the Rules of Practice and Procedure and a reopening of a special permit pursuant to ZR § 73-11 to permit non-accessory radio towers and transmitting equipment on an existing building, and an extension of term, an extension in the time to obtain a certificate of occupancy, and an amendment to legalize additional transmitting equipment and to eliminate a condition requiring a new certificate of occupancy; and

WHEREAS, the special permit was initially granted on March 29, 1988 authorizing the legalization of non accessory radio towers and transmitting equipment on the roof of the subject building for a term of ten years, to expire on March 29, 1998; and

WHEREAS, under the subject calendar number, the grant was reopened on March 6, 2001 to extend the term for an additional ten years from the date of its expiration and to permit the installation of additional antennae, to expire March 28, 2008; and

WHEREAS, the instant application was filed on May 9, 2008 by Continental Communications, identified as a lessee and contract vendee; and

WHEREAS, the Board’s Rules of Practice and Procedure require that all owners of record of a zoning lot consent to the filing of an application pertaining to that zoning lot and further requires that a signed and notarized statement or other proof accompany an application that is not filed by the owner of record showing that the application is authorized by that owner (see BSA Rules of Practice and Procedure, § 1-03(g)); and

WHEREAS, an Affidavit of Ownership executed on April 25, 2008 by Glen E. Kotowski, identified as agent for North Shore Towers Apts., Inc., owner of subject site, accompanied the application; and

WHEREAS, a public hearing was held on this application on June 24, 2008, after due notice by publication in *The City Record*, and then to decision on August 19, 2008; and

WHEREAS, on August 15, 2008, the Board received a letter from Robert Ricken, President of North Shore Towers Apartments, Inc., stating that that the April 25, 2008 Affidavit of Ownership was withdrawn and that consent by the record owner to the filing of the subject application was thereby voided and of no force or effect; and

WHEREAS, the Board would have lacked jurisdiction to hear the application, had it been filed initially without an owner’s authorization; as the owner’s authorization has been withdrawn, the Board lacks jurisdiction to maintain this application on the Calendar, or to approve it, and the application therefore must be dismissed in its entirety.

Therefore it is Resolved that the application filed under BSA Cal. No. 826-86-BZII – 828-86-BZII is hereby dismissed for lack of authorization by the owner.

Adopted by the Board of Standards and Appeals, August 19, 2008.

827-86-BZII

APPLICANT – Eric Palatnik, P.C., for North Shore Towers Apartment Incorporated, owner; Continental Communications, lessee.

SUBJECT – Application May 9, 2008 – Extension of Term for a Special Permit (§73-11), in an R3-2 zoning district, to permit the non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story multiple dwelling which expired on March 28, 2008; Extension of Time to obtain a Certificate of Occupancy which expired on March 6, 2003; waiver of the rules and an Amendment to eliminate the condition that a new Certificate of Occupancy be obtained.

PREMISES AFFECTED – 270-10 Grand Central Parkway, northeast corner of 267th Street, Block 8489, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application dismissed for lack of prosecution

THE VOTE TO DISMISS –

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

Negative:.....0

WHEREAS, this is an application seeking a waiver of the Rules of Practice and Procedure and a reopening of a special permit pursuant to ZR § 73-11 to permit non-accessory radio towers and transmitting equipment on an existing building, and an extension of term, an extension in the time to

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obtain a certificate of occupancy, and an amendment to legalize additional transmitting equipment and to eliminate a condition requiring a new certificate of occupancy; and

WHEREAS, the special permit was initially granted on March 29, 1988 authorizing the legalization of non accessory radio towers and transmitting equipment on the roof of the subject building for a term of ten years, to expire on March 29, 1998; and

WHEREAS, under the subject calendar number, the grant was reopened on March 6, 2001 to extend the term for an additional ten years from the date of its expiration and to permit the installation of additional antennae, to expire March 28, 2008; and

WHEREAS, the instant application was filed on May 9, 2008 by Continental Communications, identified as a lessee and contract vendee; and

WHEREAS, the Board's Rules of Practice and Procedure require that all owners of record of a zoning lot consent to the filing of an application pertaining to that zoning lot and further requires that a signed and notarized statement or other proof accompany an application that is not filed by the owner of record showing that the application is authorized by that owner (see BSA Rules of Practice and Procedure, § 1-03(g)); and

WHEREAS, an Affidavit of Ownership executed on April 25, 2008 by Glen E. Kotowski, identified as agent for North Shore Towers Apts., Inc., owner of subject site, accompanied the application; and

WHEREAS, a public hearing was held on this application on June 24, 2008, after due notice by publication in *The City Record*, and then to decision on August 19, 2008; and

WHEREAS, on August 15, 2008, the Board received a letter from Robert Ricken, President of North Shore Towers Apartments, Inc., stating that that the April 25, 2008 Affidavit of Ownership was withdrawn and that consent by the record owner to the filing of the subject application was thereby voided and of no force or effect; and

WHEREAS, the Board would have lacked jurisdiction to hear the application, had it been filed initially without an owner's authorization; as the owner's authorization has been withdrawn, the Board lacks jurisdiction to maintain this application on the Calendar, or to approve it, and the application therefore must be dismissed in its entirety.

Therefore it is Resolved that the application filed under BSA Cal. No. 826-86-BZII – 828-86-BZII is hereby dismissed for lack of authorization by the owner.

Adopted by the Board of Standards and Appeals, August 19, 2008.

828-86-BZII

APPLICANT – Eric Palatnik, P.C., for North Shore Towers Apartment Incorporated, owner; Continental Communications, lessee.

SUBJECT – Application May 9, 2008 – Extension of Term for a Special Permit (§73-11), in an R3-2 zoning district, to permit the non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story

multiple dwelling which expired on March 28, 2008; Extension of Time to obtain a Certificate of Occupancy which expired on March 6, 2003; waiver of the rules and an Amendment to eliminate the condition that a new Certificate of Occupancy be obtained.

PREMISES AFFECTED – 271-10 Grand Central Parkway, northeast corner of 267th Street, Block 8489, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application dismissed for lack of prosecution

THE VOTE TO DISMISS –

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

Negative:.....0

WHEREAS, this is an application seeking a waiver of the Rules of Practice and Procedure and a reopening of a special permit pursuant to ZR § 73-11 to permit non-accessory radio towers and transmitting equipment on an existing building, and an extension of term, an extension in the time to obtain a certificate of occupancy, and an amendment to legalize additional transmitting equipment and to eliminate a condition requiring a new certificate of occupancy; and

WHEREAS, the special permit was initially granted on March 29, 1988 authorizing the legalization of non accessory radio towers and transmitting equipment on the roof of the subject building for a term of ten years, to expire on March 29, 1998; and

WHEREAS, under the subject calendar number, the grant was reopened on March 6, 2001 to extend the term for an additional ten years from the date of its expiration and to permit the installation of additional antennae, to expire March 28, 2008; and

WHEREAS, the instant application was filed on May 9, 2008 by Continental Communications, identified as a lessee and contract vendee; and

WHEREAS, the Board's Rules of Practice and Procedure require that all owners of record of a zoning lot consent to the filing of an application pertaining to that zoning lot and further requires that a signed and notarized statement or other proof accompany an application that is not filed by the owner of record showing that the application is authorized by that owner (see BSA Rules of Practice and Procedure, § 1-03(g)); and

WHEREAS, an Affidavit of Ownership executed on April 25, 2008 by Glen E. Kotowski, identified as agent for North Shore Towers Apts., Inc., owner of subject site, accompanied the application; and

WHEREAS, a public hearing was held on this application on June 24, 2008, after due notice by publication in *The City Record*, and then to decision on August 19, 2008; and

WHEREAS, on August 15, 2008, the Board received a letter from Robert Ricken, President of North Shore Towers Apartments, Inc., stating that that the April 25, 2008 Affidavit of Ownership was withdrawn and that consent by the record

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owner to the filing of the subject application was thereby voided and of no force or effect; and

WHEREAS, the Board would have lacked jurisdiction to hear the application, had it been filed initially without an owner's authorization; as the owner's authorization has been withdrawn, the Board lacks jurisdiction to maintain this application on the Calendar, or to approve it, and the application therefore must be dismissed in its entirety.

Therefore it is Resolved that the application filed under BSA Cal. No. 826-86-BZII – 828-86-BZII is hereby dismissed for lack of authorization by the owner.

Adopted by the Board of Standards and Appeals, August 19, 2008.

200-00-BZ IV

APPLICANT – Eric Palatnik, P.C., for Blans Development Corporation.

SUBJECT – Application May 5, 2008 – Extension of Time to Obtain a Certificate of Occupancy for a Physical Culture Establishment (Squash Total Fitness), which expired on May 21, 2008, in a C1-4 (R6B) zoning district.

PREMISES AFFECTED – 107-24 37th Avenue, a/k/a 37-16 108th Street, Southwest corner of 37th Avenue and 108th Street. Block 1773, Lot 10, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening, and an extension of time to obtain a certificate of occupancy for a physical culture establishment (“PCE”), which expired on May 21, 2008; and

WHEREAS, a public hearing was held on this application on June 17, 2008, after due notice by publication in *The City Record*, with a continued hearing on July 15, 2008, and then to decision on August 19, 2008; and

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

WHEREAS, the site is located at the southwest corner of 37th Avenue and 108th Street, within a C1-4 (R6B) zoning district; and

WHEREAS, on July 17, 2001, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to permit the legalization of an existing PCE on the first floor and a portion of the second floor of an existing two-story mixed-use manufacturing/office building for a term of five years to expire July 17, 2006; and

WHEREAS, on May 11, 2004, the grant was amended to

permit the expansion of the PCE onto the entire second floor; and

WHEREAS, on August 21, 2007, under the subject calendar number, the Board reopened the variance to extend the term of the variance for an additional five years, to expire on July 17, 2011; and

WHEREAS, one of the conditions of the August 21, 2007 approval was that substantial construction be completed and a new certificate of occupancy be obtained by May 21, 2008; and

WHEREAS, the applicant states that the property owner has completed general construction at the site; and

WHEREAS, however, the applicant represents that building renovations unrelated to the PCE use prevented the owner from obtaining the new certificate of occupancy for the PCE within the prescribed time frame; and

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

WHEREAS, another condition of the August 21, 2007 approval was the installation of a wheel chair lift to provide access to the PCE; and

WHEREAS, following the Board's August 21, 2007 approval, the applicant received permission from the Department of Buildings (“DOB”) to instead install an elevator on the premises; and

WHEREAS, at the Board's request, the applicant submitted photographs depicting the newly installed elevator and a DOB elevator record report confirming its installation; and

WHEREAS, another condition of the August 21, 2007 approval was the planting and maintenance of street trees, as per the BSA-approved plans; and

WHEREAS, the applicant obtained a tree planting permit from the NYC Department of Parks and Recreation which has expired; and

WHEREAS, the applicant represents that it will seek a renewal of the planting permit for the October 15 to December 15, 2008 planting season; and

Therefore it is Resolved that the Board of Standards and Appeals *reopens*, and *amends* the resolution, dated July 17, 2001, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to February 19, 2009; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a certificate of occupancy shall be obtained by February 19, 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; 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. 402567254)

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Adopted by the Board of Standards and Appeals, August 19, 2008.

7-04-BZ

APPLICANT – Lawrence Whiteside, for Reverend Doctor Sheldon E. Williams, owner.

SUBJECT – Application June 26, 2008 – Extension of Time to Complete Construction of a UG4 Church/Community Outreach Center (Co-Op City Baptist Church), in an R3A zoning district, which expired June 8, 2008.

PREMISES AFFECTED – 2208 Boller Avenue, north side of Erskine Place, from Boller Avenue to Hunter Avenue, Block 5135, Lot 1, Borough of Bronx.

COMMUNITY BOARD #10BX

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 reopening and an extension of time to complete construction of a house of worship/community center (Use Group 4); and

WHEREAS, a public hearing was held on this application on July 22, 2008 after due notice by publication in *The City Record*, and then to decision on August 19, 2008; and

WHEREAS, this application is submitted on behalf of the Co-op City Baptist Church; and

WHEREAS, the subject site is located on the corner formed by Boller Avenue, Erskine Place and Hunter Avenue; and

WHEREAS, on June 8, 2004, under the subject calendar number, the Board granted a variance to permit the proposed construction of a house of worship/community center (Use Group 4), located in an R3-2 zoning district, and

WHEREAS, on January 23, 2006, the Board approved by letter certain modifications to the previously approved plans, which eliminated the sub-cellar floor due to unforeseen soil conditions and associated costs; and

WHEREAS, pursuant to a rezoning of the surrounding area in early 2006, the subject site is now located within an R3A zoning district; and

WHEREAS, substantial construction was to be completed by June 8, 2008 in accordance with ZR § 72-23, which requires substantial completion within four years of the date of the grant of a variance; and

WHEREAS, the applicant represents that construction was delayed due to discussions with the NYC Economic Development Corporation (“EDC”) regarding the financing and design of the proposed community center; and

WHEREAS, the applicant represents that additional time is therefore necessary to complete the project; and

WHEREAS, thus, the applicant now requests an

extension of time to complete construction; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 8, 2004, so that as amended this portion of the resolution shall read: “to grant a three-year extension of time to complete construction, to expire on August 19, 2011; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans associated with the prior approval; and *on condition*:

THAT construction shall be substantially complete by August 19, 2011;

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

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

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

(DOB Application No. 200804291)

Adopted by the Board of Standards and Appeals, August 19, 2008.

33-06-BZII

APPLICANT – Rampulla Associates Architects, owner; Carroll’s Garden Florist Corp., lessee.

SUBJECT – Application March 5, 2008 – Amendment to a previously-approved variance to allow the relocation of the approved commercial building to a different portion of the zoning lot. R1-2 district.

PREMISES AFFECTED – 1457 Richmond Road, north side Richmond Road from the intersection of Delaware Street, Block 869, Lot 359, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an amendment of a variance to permit a vertical and horizontal enlargement of a one-story retail (Use Group 6) building; and

WHEREAS, a public hearing was held on this application on June 17, 2008, after due notice by publication in *The City Record*, with a continued hearing on July 15,

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2008, and then to decision on August 19, 2008; and

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

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

WHEREAS, the subject site is located at the northwest corner of Richmond Road and Delaware Street within an R1-2 zoning district; and

WHEREAS, the site has a total lot area of 4,201 sq. ft. and is occupied by a 600 sq. ft. one-story garden supplies building with two loading docks and accessory parking for six cars; and

WHEREAS, on July 25, 2006, under the subject calendar number, the Board granted a variance to permit the construction of a second-story horizontal and vertical extension to the existing building; and

WHEREAS, the grant allows a building with the following bulk parameters: a maximum of two stories, a total floor area of 2,097.5 sq. ft., a total FAR of 0.50, and six parking spaces; and

WHEREAS, subsequent to the grant, the applicant sought Department of Environmental (“DEP”) approval for new storm sewer and sanitary connections for the building; and

WHEREAS, the required 30’-0” wide easement would be partially located within the footprint of the existing building and the proposed building enlargement; and

WHEREAS, thus, the enlargement approved by the BSA is no longer feasible; and

WHEREAS, the instant application therefore, seeks approval to construct a new building in a different location on the lot; and

WHEREAS, the applicant also proposes the following site changes in order to preserve the 30’-0” wide easement: (1) the new building will be located closer to Richmond Road; and (2) the proposed new parking lot will be relocated to the rear of the new building; and

WHEREAS, the applicant represents, consistent with the Board’s grant, that the first floor will be Use Group 6 retail space; the second floor will be Use Group 6 commercial office space; and

WHEREAS, the applicant represents, that the parking lot curb cut will be relocated along Delaware Road behind the proposed building; and

WHEREAS, based upon its review of the record, the Board finds that the proposed two-story retail/commercial building is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals, *reopens*, and *amends* the resolution, dated July 25, 2006, so that as amended this portion of the resolution shall read: “to permit a change in the proposed location of the development of a two-story retail/commercial building (Use Group 6); *on condition* that all work shall substantially conform to drawings filed with this application and marked “Received March 5, 2008”- two (2) sheets and “Received July 1, 2008” – one (1) sheet; and *on further condition*:

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 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. (DOB Application No. 500812472)

Adopted by the Board of Standards and Appeals, August 19, 2008.

180-07-BZ

APPLICANT – Sheldon Lobel, P.C., for 47 Development, LLC, owner; Ritual Spa LLC dba Silk Day Spa, lessee.

SUBJECT – Application June 12, 2008 – Extension of Time to obtain a Certificate of Occupancy for a previously granted PCE (Silk Day Spa), in a C6-2/C6-2M zoning district, which expired on May 20, 2008.

PREMISES AFFECTED – 47 West 13th Street, north side of West 13th Street, between Fifth and Sixth Avenues, Block 577, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy, which expired on May 20, 2008, for a physical culture establishment (PCE); and

WHEREAS, a public hearing was held on this application on July 22, 2008, after due notice by publication in *The City Record*, and then to decision on August 19, 2008; and

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

WHEREAS, the site is located on the north side of West 13th Street, between Fifth Avenue and Sixth Avenue, partially within a C6-2M zoning district and partially within a C6-2 zoning district; and

WHEREAS, the PCE occupies 5,846 sq. ft. of floor area in the cellar and 491 sq. ft. of floor area on the first floor of a nine-story mixed-use building; and

WHEREAS, the PCE is operated as Silk Day Spa; and

WHEREAS, on November 20, 2007, under the subject calendar number, the Board approved the legalization of the PCE at the subject site, with certain conditions; and

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WHEREAS, one condition of the grant was that a new certificate of occupancy be obtained by May 20, 2008; and

WHEREAS, the applicant represents that the owner's failure to obtain the certificate of occupancy within the stipulated time was due to construction delays beyond its control; and

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

WHEREAS, a condition of the November 20, 2007 grant was that the Spa redirect the exhaust vents that discharge onto West 13th Street; and

WHEREAS, the applicant submitted a letter dated August 12, 2008 stating that the Spa will remove the subject vents and redirect the exhaust through the building's interior ventilation system; and

WHEREAS, based upon its review of the record, the Board finds that a six-month extension of time to obtain a certificate of occupancy until February 19, 2009 is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated November 20, 2007, so that as amended this portion of the resolution shall read: "to grant an extension of time to obtain a certificate of occupancy to February 19, 2009; *on condition* that all use and operations shall substantially conform to all BSA-approved drawings associated with the prior grant; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, August 19, 2008.

360-01-BZ

APPLICANT – Carl. A. Sulfaro, Esq., for Kings Knapp Development Corporation, owner.

SUBJECT – Application July 1, 2008 – Extension of Time to obtain a Certificate of Occupancy/waiver for an existing gasoline service station (Mobil), in a C2-2/R-4 zoning district, which expired on December 17, 2004.

PREMISES AFFECTED – 2228 Gerritsen Avenue, southwest corner of Avenue U, Block 7370, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Carl A. Sulfaro, Esq.

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

217-03-BZ

APPLICANT – Sheldon Lobel, P.C., for 140 Pennsylvania Avenue, LLC, owner.

SUBJECT – Application July 17, 2008 – Extension of Time to Complete Construction of a previously granted variance for the proposed expansion of a one story and cellar building in an R-5 zoning district.

PREMISES AFFECTED – 142 Pennsylvania Avenue, southeast corner of Pennsylvania Avenue and Liberty Avenue, Block 3703, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Elizabeth Safian.

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

257-04-BZ

APPLICANT – Cozen O'Connor Attorneys, for Boerum Place, LLC, owner.

SUBJECT – Application May 19, 2008 – Original bulk variance was granted on 8/23/05. SOC Amendment filed on 5/19/08 pursuant to ZR §§72-01 & 72-22 to modify the street wall with dormers and to extend the elevator bulkhead to allow ADA access to the roof. No changes proposed to floor area or any waiver previously granted by the Board. R6, R6A, C2-3 & C2-4 districts.

PREMISES AFFECTED – 252/260 Atlantic Avenue aka 83-89 Boerum Place aka 239/247 Pacific Street, east side of Boerum Place, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Barbara Hair

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

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APPEALS CALENDAR

265-07-A

APPLICANT – Abigail Patterson, for West 70th Associates, owner.

SUBJECT – Application November 19, 2007 – An appeal challenging the Department of Building's interpretation that the rear yard structure (porch) is a permitted obstruction that complies with Section 23-44. R8B zoning district.

PREMISES AFFECTED – 57 West 70th Street, north side of 70th Street, 160' east of corner formed by 70th Street and Columbus Avenue, Block 1123, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Jay Goldstein.

For Opposition: Mark Davis, Department of Buildings.

ACTION OF THE BOARD – Appeal denied.

THE VOTE TO GRANT –

Affirmative:0

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

THE RESOLUTION:

WHEREAS, the instant appeal comes before the Board in response to a Final Determination letter dated October 17, 2007 by the Manhattan Borough Commissioner of the NYC Department of Buildings (DOB) (the "Final Determination") addressed to Abigail Patterson, Esq., with respect to DOB Alteration Permit No. 104314635; and

WHEREAS, the Final Determination reads, in pertinent part:

"This letter is in reference to your October 15, 2007 request for final determination regarding the structure in the rear yard of 57 West 70th Street, New York, New York, 10023, which you characterized as a "porch."

"Please be advised, this structure conforms to Zoning Resolution § 23-44 as clarified by Technical Policy and Procedure Notice # 4/03.

"This is the Department's final determination with regard to this matter"; and

WHEREAS a public hearing was held on this application on May 6, 2008 after due notice by publication in *The City Record*, with a continued hearing on June 24, 2008 and then to decision on August 19, 2008; and

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

WHEREAS, this appeal is brought on behalf of Helen Ritz, the owner and resident of 59 West 70th Street (the "Appellant"); the Appellant was represented by counsel in this proceeding; and

WHEREAS, DOB has been represented by counsel throughout this Appeal; and

WHEREAS, the instant appeal concerns whether a rear yard structure located at the subject site is a permitted obstruction under ZR § 23-44; and

WHEREAS, the premises is located at 57 West 70th Street in an R8B zoning district; and

PROCEDURAL HISTORY

WHEREAS, on February 16, 2006, the Department of Buildings ("DOB") approved construction of a balcony in the rear yard of the subject site pursuant to DOB Application No. 104314635 (the "permit"); and

WHEREAS, on October 31, 2006, counsel for the Appellant wrote to the Manhattan Borough Commissioner requesting reconsideration of DOB's approval based on the alleged non-conformance of the rear yard structure with the provisions of ZR § 23-132 governing balconies; and

WHEREAS, in a January 4, 2007 letter to Appellant's counsel, the rear yard structure was denominated as a "porch" by DOB's Manhattan Borough Commissioner and the permit was accordingly amended to reflect that the structure was a porch; and

WHEREAS, on January 26, 2007, the Appellant requested a revocation of the permit based on the alleged creation of floor area beneath the porch in violation of ZR § 23-44; and

WHEREAS, on October 17, 2007, the Manhattan Borough Commissioner issued the Final Determination, cited above, that forms the basis of the instant appeal; and

WHEREAS, on November 19, 2007, the Appellant filed the instant appeal at the BSA seeking a revocation of the permit, or an alteration of the rear structure to comply with the Zoning Resolution; and

ISSUES PRESENTED

WHEREAS, the Appellant contends that DOB should revoke the permit for the structure because it (i) is a balcony that violates the requirements for balconies set forth in ZR § 23-132; or (ii) it is a porch that impermissibly creates floor area beneath it in violation of ZR § 23-44; or, alternatively, (iii) the area underneath is usable storage space in violation of DOB's Technical Policy and Procedure Notice # 4/03 ("TPPN # 4/03"); and

(i) Whether the Rear Yard Structure is an Illegal Balcony

WHEREAS, the Appellant argues that the rear yard structure is an exterior balcony under Section 1602.1 of the new Building Code, effective July 1, 2008; and

WHEREAS, the Appellant further argues that the "balcony" violates ZR § 23-132(e) which requires balconies to be located at least 20 feet above curb level or at the third story of a building, because it is attached at the first floor above the cellar and is only ten feet from the grade level; and

WHEREAS, the Appellant contends that the structure also violates the ZR § 23-132(f) because it extends the entire length of the plane surface of the building wall to which it is attached, far in excess of the 50 percent of the length of the plane surface permitted for balconies by ZR § 23-132(f); and

WHEREAS, DOB asserts states that the structure at issue is a porch rather than a balcony, and therefore is not regulated by ZR § 23-132; and

WHEREAS, the cited provision of the new Building

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Code defines a “balcony” as “an exterior floor projecting from and supported by a structure without additional independent supports;” and

WHEREAS, DOB points out that the photographs provided by the Appellant show that the structure in question is supported by beams extending from the structure to the ground, and

WHEREAS, DOB’s TPPN # 4/03 defines “porch” as “[a]n unenclosed, unroofed entrance with steps to a building located at or below the floor level of the first story above a cellar or basement;” and

WHEREAS, according to the approved plans, the structure is unroofed and is located at the floor level of the first story of the subject building; and

WHEREAS, DOB further cites to definitions of “porch” found in the Means Illustrated Construction Dictionary and Merriam-Webster Online Dictionary which distinguish a porch from a balcony by including the criterion that a porch can be an entrance to a building; and

WHEREAS, the contested structure is an entrance to the subject building; and

WHEREAS, the Board agrees that the structure at issue is a porch, rather than a balcony, and therefore is not regulated by ZR § 23-132; and

(ii) Whether the Structure Is a Porch That Impermissibly Creates Floor Area

WHEREAS, ZR § 23-44 provides that open porches and terraces are permitted obstructions in required rear yards; and

WHEREAS, the Appellant contends that if the rear yard structure is a porch, the structure violates the Zoning Resolution by impermissibly enclosing the area beneath it to create floor area; and

WHEREAS, Section 12-10(f) of the Zoning Resolution provides that “floor area” includes “floor space in open or roofed terrace, bridges, breezeways or porches, if more than 50 percent of the perimeter of such terrace, breezeway or porch is enclosed, and provided that a parapet not higher than 3 feet 8 inches, or a railing not less than 50 percent open and not higher than 4 feet, 6 inches, shall not constitute an enclosure;” and

WHEREAS, the applicant asserts that the area beneath the rear yard structure is enclosed on three sides: on the south side by the building to which it is attached; on the east side by a wall and on the west side by a party wall which encloses the area to a height of 5’-8”; and

WHEREAS, the Appellant further contends that approximately 70 percent of the perimeter area is thereby enclosed and that the area underneath the porch is a “terrace,” within the meaning of TPPN #4/03, because it is enclosed around more than 50 percent of its perimeter; and

WHEREAS, DOB contends that even if the party wall shown in Petitioner’s photographs of the site was found to constitute an enclosure of the area under the porch, this area would not create “floor area” as defined in ZR § 12-10 (f) because the area below the porch is at grade level and is therefore not a terrace, breezeway or porch; and

WHEREAS, terraces are, by definition elevated

platforms (see, e.g., Dictionary of Architecture and Construction 988 (4th ed. 2005) (defining “terrace” as an embankment with level top, often paved, planted and adorned for leisure use. 2. A flat roof or a raised space or platform adjoining a building”)); and

WHEREAS, the Appellant has not argued that the structure is a “breezeway,” and it is clear from the definition of breezeway in TPPN #4/03 that it is not, as it does not connect a building to another building or garage; and

WHEREAS, DOB further contends, therefore, that even if the area under the porch were enclosed on the manner asserted by the Appellant, it would not be “floor area” under the Zoning Resolution; and

WHEREAS, the Board finds no support for Appellant’s claim that floor area in violation of ZR § 23-44 is created below the subject porch; and

(iii) Whether the Rear Yard Structure Creates Prohibited Storage Area

WHEREAS, the Appellant contends that approximately 70 percent of the perimeter area beneath the porch is enclosed, and that “usable building or storage space” is thereby created, in violation of TPPN # 4/03; and

WHEREAS, the Appellant argues that if usable building or storage space were created by a porch, that porch would no longer be a permitted obstruction and would therefore encroach into the rear yard in violation of ZR § 23-44; and

WHEREAS, as discussed above, under ZR § 23-44, a porch is a permitted obstruction in a rear yard unless its parapet or railing is enclosed above a certain height, thereby impermissibly creating floor area; and

WHEREAS, area at grade beneath a porch is not construed as “floor area” by the Zoning Resolution; and

WHEREAS, TPPN #4/03 prohibits “useable building or storage space” beneath porches; DOB points out that Zoning Resolution does not define these terms and the agency therefore interprets them to refer to floor area; and

WHEREAS, the Appellant argues, however, that TPPN #4/03’s prohibition against “usable building or storage space” under porches should be read expansively to create an impermissible obstruction of a required rear yard if such area is found to be more than 50 percent enclosed, even if such an enclosure did not create prohibited floor area under the Zoning Resolution; and

WHEREAS, DOB contends that there is no support for such an interpretation of the Zoning Resolution and, further, that the agency lacks the power to prohibit that which the Zoning resolution does not, citing Matter of Faith for Today v. Murdock, 11 A.D.2d 718, 719 (2d Dep’t. 1960) aff’d 9 N.Y.2d 761 (1961)(restrictions on use of property imposed by the Zoning Ordinance may not be extended by any administrative board or judicial tribunal in order to exclude a use which in its opinion should have been excluded) (internal citation and pagination omitted); and

WHEREAS, DOB further contends that since TPPN #4/03 can prohibit only what is already prohibited by the Zoning Resolution, that the terms “usable building or storage space,” which are undefined by the Zoning

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Resolution, can refer only to the ZR-defined term “floor area,” because “floor area” is prohibited in required rear yards; and

WHEREAS, the Appellant argues that the area under the porch at issue is enclosed on “no less than four of six dimensions,” including by a “party wall” on the west side; and

WHEREAS, DOB points out and the Board agrees, that a finding that more than 50 percent of the perimeter is enclosed is relevant only to “floor area” considerations for “terraces, bridges, breezeways or porches,” and since the Appellant has not established that the area underneath the porch at issue is either a terrace, bridge, breezeway, or porch, the number of dimensions in which it is enclosed is not relevant; and

WHEREAS, even if the area at grade below the porch were determined to be a “terrace,” as the Appellant has suggested, DOB states that the Appellant has failed to establish that the perimeter walls are more than 50 percent enclosed, contending that the area below the porch is enclosed on only its south and east sides; and

WHEREAS, DOB states that that there is no enclosure on the west side of the lot as the west wall referred to by the Appellant is not located on the same lot as the porch; and

WHEREAS, DOB further contends that without the west wall, less than 50 percent of the perimeter area is enclosed and the area below the porch therefore would not constitute “useable building or storage space underneath” under TPPN # 4/03; and

WHEREAS, the Appellant argues, based on a 1989 deed, that the western wall separating 57 West 70th Street and 59 West 70th Street is in fact a party wall; and further argues that TPPN 4/03 does not distinguish party walls from walls constituting enclosures; and

WHEREAS, DOB asserts that even if a party wall were on the lot line (or entirely on Subject Premises’ side), such a wall would not create “floor area” merely by enclosing grade level space stating that, if that were the case, then all required yards surrounded by fences or walls would become impermissible obstructions; and

WHEREAS, DOB states and the Board agrees that such a result is clearly absurd and not supported by the Zoning Resolution; and

WHEREAS, notwithstanding the fact that, even if the area beneath the porch were more than 50 percent enclosed it would not create “floor area” under ZR § 12-10, the Board finds that the area below the porch is not so enclosed and that “useable building or storage space underneath” which would arguably be prohibited by TPPN 4/03 is not created; and

WHEREAS, the Board further finds that the contested structure is a porch, and a permitted obstruction under ZR § 23-44, and that there is therefore no basis for the revocation of the permit; and

Therefore it is resolved that the instant appeal is denied.

Adopted by the Board of Standards and Appeals, August 19, 2008.

68-08-A

APPLICANT – Sheldon Lobel, P.C., for N.J.A. Ventures, LLC, 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 R6A zoning. R5D Zoning District.

PREMISES AFFECTED – 135-23 82nd Avenue, between 135th Street and 138th Street (aka Hoffman Avenue), Block 9669, Lot 30, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Appeal granted.

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 appeal requesting a Board determination that the owner of the premises has obtained the right to complete a proposed residential building under the common law doctrine of vested rights and a rescission of a Stop Work Order issued against the property; and

WHEREAS, a public hearing was held on this application on June 17, 2008 after due notice by publication in *The City Record*, with a continued hearing on July 22, 2008, and then to decision on August 19, 2008; and

WHEREAS, the site was inspected by Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, Community Board 8, Queens recommends disapproval of this application citing concerns with neighborhood context; and

WHEREAS, the subject site consists of a 7,193 sq. ft. lot fronting on the south side of 82nd Avenue between 135th Street and 138th Street (aka Hoffman Avenue) in the Briarwood neighborhood of Queens; and

WHEREAS, the applicant proposes to develop the site with a six-story multi-family building with 27 dwelling units and a total floor area of 21,579 sq. ft.; and

WHEREAS, the subject site was formerly located within an R6 zoning district; and

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

WHEREAS, however, on February 27, 2008 (hereinafter, the “Rezoning Date”), the City Council voted to adopt the Briarwood Rezoning, which rezoned the site to R5D; and

WHEREAS, the building does not comply with the R5D district parameters as to floor area and height; and

WHEREAS, on March 3, 2008, the applicant was issued a Stop Work Order by DOB, halting construction on the site; and

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

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WHEREAS, Alteration Type 2 Permit No. 410045525 permitting construction of the subject building's foundations (the "Foundation Permit") was issued to the owner by the Department of Buildings (DOB) on December 14, 2007, prior to the Rezoning Date; and

WHEREAS, the applicant states that the Foundation Permit was based on complete plans and specifications examined and approved by DOB and was filed in conjunction with New Building Application No. 410024593 ("New Building Permit"); and

WHEREAS, however, no New Building Permit was issued in connection with the New Building Application prior to the Rezoning Date; and

WHEREAS, DOB initially opposed the subject application on the basis of outstanding objections to the Foundation Permit, and the belief that the zoning calculations for the foundation and proposed building had not been reviewed by the agency; and

WHEREAS, the Appellant subsequently cured the objections to the Foundation Permit and further investigation revealed that a DOB Plan Examiner had indeed reviewed and approved the zoning calculations prior to the issuance of the Foundation Permit; thus, DOB withdrew its opposition to the vesting application; and

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

WHEREAS, the applicant cites to Glenel Realty Corp. V. Worthington (4 A.D.2d 7002, 703 (2d Dep't 1957), for the proposition that a vested right in the foundation of a structure "must connote a vested right to the erection and use of the specific superstructure for which the foundation was designed;" and

WHEREAS, the Board notes that when work proceeds under a valid permit, a common law vested right to continue construction generally exists where: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

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

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

WHEREAS, as to substantial construction, the

applicant states that before the Rezoning Date, the owner had completed site preparation, shoring of adjacent properties, excavation, foundations and interior column footings; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: photographs of the site taken one month before the Rezoning Date; an affidavit of the foundation contractor; an invoice from the foundation contractor stating the amount of work completed; concrete delivery tickets; cancelled checks; and accounting summaries; and

WHEREAS, the foundation contractor states that 100 percent of the foundation was completed by the Rezoning Date; and

WHEREAS, a foundation survey dated January 29, 2008, prior to the Rezoning Date, signed and sealed by a licensed land surveyor, states that the foundation was completed by that date; and

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

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

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

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

WHEREAS, the applicant states that prior to the Rezoning Date, the owner expended \$569,927, including hard and soft costs and irrevocable commitments, out of \$5,934,613 budgeted for the entire project; and

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

WHEREAS, in relation to actual construction costs and related soft costs, the applicant specifically notes that the owner had paid \$551,474 for excavation, shoring, installation of foundations, architectural and engineering fees; and

WHEREAS, the applicant further states that the owner also irrevocably owed an additional \$19,276 in connection with the proposed construction in outstanding fees owed for architectural and engineering services; and

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

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

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

WHEREAS, the applicant represents that a complying development would have a maximum of four stories with a total floor area of 13,498 sq. ft., due to the R5D zoning district's height and bulk restrictions; and

WHEREAS, the inability to develop the proposed building at six stories and 21,579 square feet would require the owner to re-design the proposed development; and

WHEREAS, the applicant contends that \$570,750 associated with pre-Rezoning Date project costs would be lost if this appeal were denied; and

WHEREAS, the applicant contends that such a loss is significant;

WHEREAS, additionally, the applicant explained the diminution in income that would occur if the R5D district height and bulk limits were imposed; and

WHEREAS, the applicant notes that a portion of the foundation would have to be demolished and reconstructed for such a complying building, further compounding the economic harm to the owner; and

WHEREAS, the Board agrees that the need to redesign, the limitations of any complying development, and the \$570,750 of actual expenditures and outstanding fees that could not be recouped constitute, in the aggregate, a serious economic loss, and that the supporting data submitted by the applicant supports this conclusion; and

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

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a rescission of the Stop Work Order and a reinstatement of DOB Permit No. 410045525, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, August 19, 2008.

39-07-A thru 40-07-A

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

SUBJECT – Application February 2, 2007 – Proposed construction of 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.

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

230-07-BZY

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Alco Builders, Inc., owner.

SUBJECT – Application October 9, 2007 – Extension of time (§11-331) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on September 10, 2007. R4-1 zoning district.

PREMISES AFFECTED – 90-22 176th Street, between Jamaica and 90th Avenues, Block 9811, Lot 61, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Eric Palatnik.

For Administration: John Egnots, Department of Buildings.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to August 19, 2008, at 10:00 A.M., for decision, hearing closed.

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: Barbara Hair.

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

Jeffrey Mulligan, Executive Director

Adjourned: 11:00 A.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, AUGUST 19, 2008
1:30 P.M.**

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

ZONING CALENDAR

281-06-BZ & 282-06-A

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

SUBJECT – Application October 20, 2006 – Special Permit (§73-622) for the In-Part Legalization of the existing floor area which exceeds the district requirement (§23-141) in an R3-1 zoning district. This application also proposes to reduce the overall height which exceeds the district requirement.

Appeal of DOB determination that the proposed street wall eaves, slope roof projection and trussed rafters were not permitted obstruction as stated in §27-335(A)(2) of the Building Code.

PREMISES AFFECTED – 232 Beaumont Street, west side of Beaumont Street, south of Oriental Boulevard, Block 8739, Lot 50, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

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, August 19, 2008.

189-07-BZ

CEQR #08-BSA-010Q

APPLICANT – Eric Palatnik, P.C., for Feng Dong, owner.

SUBJECT – Application August 2, 2007 – Variance (§72-21) to allow ground floor retail use (UG 6) within a six (6) story residential building; contrary to use regulations (§22-00). R6 district.

PREMISES AFFECTED – 40-55 College Point Boulevard, east side of College Point Boulevard, between the LIRR right-of-way and 41st Avenue, Block 5037, 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, the decision of the Queens Borough Superintendent, dated August 6, 2008, acting on Department of Buildings Application No. 402592743, reads in pertinent part:

- (1) Proposed commercial development in residential Zoning District R6 is contrary to ZR section 22-00”;
- (2) The Lot Coverage for the 1st floor commercial is contrary to ZR section 23-145; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R6 zoning district, ground floor commercial retail use (Use Group 6) within a new six-story building which does not conform to district use and lot coverage regulations, contrary to ZR §§ 22-00 and 23-145; and

WHEREAS, a public hearing was held on this application on April 1, 2008, after due notice by publication in *The City Record*, with continued hearings on May 6, 2008, June 3, 2008, and July 15, 2008, and then to decision on August 19, 2008; and

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

WHEREAS, Community Board 7, Queens recommends disapproval of this application stating that the applicant did not make the required variance findings and cited safety concerns regarding the proposed accessory off-street parking; and

WHEREAS, Councilmember Liu recommends disapproval of this application stating that the alleged hardship should be addressed by a more comprehensive neighborhood rezoning and expressed concern that the subject application, if granted, would set a precedent for similarly zoned properties in the neighborhood; and

WHEREAS, the subject site is located within an R6 zoning district on the east side of College Point Boulevard between a Long Island Rail Road (LIRR) right-of-way and 41st Avenue; and

WHEREAS, the site is an irregularly shaped and shallow interior lot within 100 feet of the corner of 41st Avenue with a width of approximately 78 feet along its College Point Boulevard frontage, a depth of approximately 65 feet along its northern boundary, a depth of approximately 86 feet along its southern boundary and a total lot area of approximately 5,657 sq. ft.; and

WHEREAS, the site is currently developed with a one-story commercial building constructed in 1955 and occupied by a non-conforming door and window supply establishment which will be demolished to make way for the proposed development; and

WHEREAS, the applicant proposes to construct a six-story mixed-use building with ground floor retail use (U.G. 6), community facility medical offices on the second floor (U.G. 4) and twelve dwelling units (U.G. 2) on the third through sixth

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floors; and

WHEREAS, the proposed building will have a total floor area of 20,320 sq. ft. (3.59 FAR), 13,034 sq. ft. of residential floor area (2.30 FAR), 3,349 sq. ft. of community facility floor area (0.59 FAR), 3,937 sq. ft. of commercial retail floor area (0.70 FAR); and 23 attended accessory parking spaces in the building's cellar; and

WHEREAS, ground floor commercial use is not permitted in the subject R6 district and therefore the proposal requires a use variance to allow the proposed commercial retail use (U.G. 6); and

WHEREAS, the proposed building's 100 percent lot coverage proposed for the ground floor commercial base violates applicable lot coverage requirements; (lot coverage of 80% is the maximum permitted); and

WHEREAS, because of the proposed use non-conformance and the lot coverage non-compliance, the instant variance application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site with a conforming development: (1) the contamination of the site from prior commercial use; (2) its location abuts the LIRR viaduct; (3) its irregular, trapezoidal shape; and (4) its location on a heavily-trafficked street with numerous commercial uses; and

WHEREAS, as to the contamination of the site, the applicant represents that the site was formerly used as a automotive repair shop and due to documented spills and releases of petroleum products from this operation, incurrence of significant environmental remediation costs would be necessary to redevelop the subject property; and

WHEREAS, as to the directly adjacent LIRR viaduct, the applicant represents that the Port Washington line of the railroad travels on an approximately fifteen foot high viaduct that spans the entire length of the site's northern boundary resulting in a condition that inhibits residential uses on the ground floor; and

WHEREAS, as to the site's shallow and irregular shape, the applicant represents that the site's depth varies from approximately 65' to 86' from its College Point Boulevard frontage; thus constraining an as-of-right ground floor plate; and

WHEREAS, the applicant also asserts that the high amount of traffic at the location, which includes that for the many nearby commercial businesses, diminishes the marketability for a conforming use on the ground floor level; and

WHEREAS, as to the site's location within 100 feet of the corner of College Point Boulevard and 41st Avenue, the applicant notes that College Point Boulevard is a wide street with a width of 100 feet, which is heavily-trafficked; and

WHEREAS, the Board notes that the applicant submitted a land use map of the surrounding area, which reflect commercial uses with frontage on College Point Boulevard; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when

considered in the aggregate, create 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 a conforming and complying development which consisted of a multiple dwelling with ground floor medical offices; and

WHEREAS, the feasibility study concluded that a reasonable rate of return for an as-of-right development is not achievable; and

WHEREAS, the applicant represents that a conforming and complying development would not realize a reasonable return due to the site's constraints; and

WHEREAS, specifically, the applicant has identified significant premium costs related to the soil remediation that render a conforming and complying development infeasible; and

WHEREAS, the Board directed the applicant to provide a financial analysis for two scenarios with less total square footage than that of the proposed: (1) a five-story residential building with ground floor commercial retail with a first level floor-to-ceiling height of 16'-0"; and (2) a five-story residential building with ground floor retail with a first level floor-to-ceiling height of 23' and found that neither yield a reasonable return; and

WHEREAS, at the Board's request, the applicant also modified the financial analysis to include commercial retail rent comparables, which it found to be more relevant to the subject site than the comparables data initially analyzed; 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 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 represents that the surrounding area is occupied by an abundance of commercial uses; and

WHEREAS, the applicant states that the site was used for commercial uses for approximately 50 years; and

WHEREAS, the Board notes that the proposed building respects the height and floor area limits of the subject zoning district and provides the required parking based on the floor area; and

WHEREAS, the applicant states that the block immediately to the west of the subject site is established within an M1-2 district and a C4-2 district and that the College Point Boulevard frontage to its immediate southwest is located within a (C2-1) R6 district and that both of these blocks are occupied by commercial uses; and

WHEREAS, the commercial character of the neighborhood is reinforced by the presence of the railroad viaduct immediately to the north of the site; and

WHEREAS, the Board has reviewed the map and photos of the immediate area submitted with this

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application, and has also conducted its own site visit, and concludes that the proposed ground floor commercial use and the overall bulk parameters of the building will be compatible with the existing conditions in the surrounding neighborhood; and

WHEREAS, at hearing, the Board questioned the ability of the proposed cellar level to accommodate 23 parked vehicles; and

WHEREAS, in particular, the Board expressed concern regarding potential interference with vehicle movement by the location of an elevator and stacker mechanisms, as well as the limited turning radius at the building's western wall; and

WHEREAS, the applicant responded to the Board's concerns by submitting additional drawings showing an adequate turning radius for the area in question;

WHEREAS, the applicant, also in response the Board's concerns with vehicle maneuverability, has agreed to post a parking attendant at the base of the ramp on the cellar level; and

WHEREAS, the Board is satisfied that the proposed accessory parking layout is adequate with respect to the safety, maneuverability and its ability to accommodate 23 vehicles; 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 unique site conditions specifically the proximity to the LIRR viaduct and the environmental conditions; and

WHEREAS, the applicant represents that without the requested zoning relief for the non-conforming commercial use and the non-compliant lot coverage that would allow the proposed building, construction costs could not be overcome, and the shallowness of the ground-level floor plates would make the site less efficient and therefore less marketable; and

WHEREAS, the Board directed the applicant to evaluate a number of alternative proposals but none were found to provide a reasonable rate of return and 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, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 08BSA010Q, dated December 6, 2007; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions;

Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the Department of Environmental Protection (DEP) has reviewed and found acceptable the following submissions from the Applicant: an December, 2007 Environmental Assessment Statement, a November, 2007 Phase I Report, March, 2008 Phase II Subsurface Investigative Report and May, 2008 Remedial Action and Construction Health and Safety plans; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials; 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 under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R6 zoning district, a six (6) story mixed-use building total floor area of 20,320 sq. ft. (3.59 FAR), 13,034 sq. ft. of residential floor area (2.30 FAR), 3,349 sq. ft. of community facility floor area (0.59 FAR), 3,937 sq. ft. of commercial retail floor area (0.70 FAR), twelve (12) dwelling units, a base height of 60'-0", a total height of 70'-0" above a ten-foot front setback, 23 attended accessory parking spaces in the building's cellar; and is non-conforming as to use and non-compliant as to lot coverage; contrary to ZR §§ 22-00 and 23-145; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 22, 2008" – two (2) sheets and "Received August 15, 2008" – five (5) sheets; and *on further condition*:

THAT the total FAR of the development is limited to 3.59, with a residential FAR of 2.30, a community facility FAR of 0.59, and a commercial FAR of 0.70;

THAT the other bulk parameters of the building shall be as indicated on the BSA-approved plans;

THAT the Department of Buildings must approve the layout of the parking areas, the queuing space, the use of stackers, and the location of the curb cut for ingress/egress; and

THAT the Board, as a condition of this grant, will ask DOB to audit the BSA-approved plans to ensure compliance with all applicable laws and regulations concerning accessory parking; and

THAT all signage shall comply with C1 zoning district parameters;

THAT the above conditions shall be stated on the

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certificate of occupancy;

THAT substantial construction must be completed by August 19, 2012;

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 this grant is contingent upon final approval from the Department of Environmental Protection before an issuance of construction permits other than permits needed for soil remediation; and

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

Adopted by the Board of Standards and Appeals, August 19, 2008.

12-08-BZ

CEQR #08-BSA-044M

APPLICANT – Sheldon Lobel, P.C., for Empire State Development Corp., owner; Harlem Center, LLC, lessee.

SUBJECT – Application January 3, 2008 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment on a portion of the cellar and ground floor in a ten-story commercial building. The proposal is contrary to §32-10. C4-7 district.

PREMISES AFFECTED – 317 Lenox Avenue, a/k/a 105 W. 125th Street, west side of Lenox Avenue, between 125th Street and 126th Street, Block 1910, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Elizabeth Safian.

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 February 7, 2008, acting on Department of Buildings Application No. 104930309, reads in pertinent part:

“Proposed changes of use of the portions of the cellar and 1st floor to physical culture establishment requires BSA approval as per ZR 32-31”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-7 zoning district, the legalization of a physical culture establishment (PCE) in a portion of the cellar and a portion of the first floor of a 10-story commercial building, contrary to ZR §§ 32-10 and 32-

31; and

WHEREAS, a public hearing was held on this application on May 6, 2008 after due notice by publication in *The City Record*, and then to decision on August 19, 2008; and

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

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

WHEREAS, the subject site is located on the west side of Lenox Avenue a/k/a Malcolm X Boulevard, between 125th Street and 126th Street; and

WHEREAS, the proposed PCE will occupy approximately 13,740 sq. ft. of floor area in the cellar and on the first floor of the subject site; and

WHEREAS, the PCE will be operated as a Planet Fitness health club and will be open to the general public; and

WHEREAS, the applicant represents that the services of the PCE will include those a full-service health club, including programs for group training, physical improvement, body building, weight reduction and aerobics; and

WHEREAS, the applicant represents that the facility will operate 24 hours daily from midnight on Mondays until 10:00 PM on Fridays, and will operate from 7:00 AM to 7:00 PM on Saturdays and Sundays; and

WHEREAS, the Board finds that this action will neither alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties, nor 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 (ak); 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. 08BSA044M, dated March 20, 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

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Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 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 C5-2 zoning district, the establishment of a physical culture establishment in the cellar and on the first floor of a 13-story mixed-use residential/commercial building, contrary to ZR § 32-10; on condition that all work shall substantially conform to drawings filed with this application marked "Received January 3, 2008"- (2) sheets; "Received March 20, 2008"- (1) sheet; and "Received April 9, 2008"- (1) sheet and on further condition:

THAT the term of this grant shall expire on August 19, 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 sound attenuation measures shall be installed and maintained per the sound attenuation plan;

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

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

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. (DOB Application No. 104930309)

Adopted by the Board of Standards and Appeals, August 19, 2008.

37-08-BZ CEQR #08-BSA-058R

APPLICANT – Slater & Beckerman, LLP, for Catholic High School Association of N.Y., owner; Northrop Grumman Info. Tech. Inc., lessee.

SUBJECT – Application February 21, 2008 – Special Permit (§73-30) to allow an extension to an existing non-accessory radio tower as part of the New York City Department of Information Technology and Telecommunications/Wireless Network. R3X zoning district.

PREMISES AFFECTED – 100 Merrill Avenue, between Arlene Street and Richmond Avenue, Block 2236, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Robert Gaudio.

For Opposition: John Grassadonio and Walter Steinhandler.

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, August 19, 2008.

156-08-BZ CEQR #08-BSA-089M

APPLICANT – Friedman & Gotbaum, LLP, for Hilton Resorts Corporation, owner; Spa Chakra, LLC, lessee.

SUBJECT – Application June 5, 2008 – Special Permit pursuant to ZR §73-36 to allow the proposed Physical Culture Establishment on a portion of the ground floor of a new hotel. The proposal is contrary to ZR §32-10. The premises is located in a C5-3 zoning district.

PREMISES AFFECTED – 102 West 57th Street, Southerly side of West 57th Street, 150 feet west of Sixth Avenue, Block 1009, Lots 37 & 39, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Lori Cuisinier.

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 May 13, 2008, acting on Department of Buildings Application No. 104500425PAA, reads in

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pertinent part:

“Proposed physical culture establishment on the ground [floor] portion located within C5-3 zoning district is not permitted pursuant to zoning resolution section 32-10;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C5-3 zoning district, the establishment of a physical culture establishment (PCE) on a portion of the ground floor of a 27-story time-share hotel, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on July 15, 2008, after due notice by publication in *The City Record*, and then to decision on August 19, 2008; and

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

WHEREAS, Community Board 5, Manhattan, has declined to hear this matter; and

WHEREAS, the subject site is located on the south side of West 57th Street, 100 feet west of Sixth Avenue; and

WHEREAS, a 27-story time-share hotel is currently under construction at the site; and

WHEREAS, the PCE will occupy approximately 3,252 sq. ft. of floor area on the ground floor of the subject site; and

WHEREAS, the PCE will be operated by Spa Chakra and will be open to the general public; and

WHEREAS, the applicant represents that the services at the PCE will include those of a full-service day spa including massage by licensed professionals; and

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

WHEREAS, the applicant has provided floor plans that describe the sound attenuation program to be installed at the PCE; and

WHEREAS, the Board finds that this action will neither alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties, nor 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 (ak); 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. 08BSA089M, dated July 1, 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 C5-3 zoning district, the establishment of a physical culture establishment on a portion of the ground floor of a 27-story time-share hotel, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received July 2, 2008- (2) sheets; and *on further condition*:

THAT the term of this grant shall expire on August 19, 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 sound attenuation measures shall be installed and maintained in accordance with the approved plans;

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

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

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granted; and

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

Adopted by the Board of Standards and Appeals, August 19, 2008.

51-07-BZ

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

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

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

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Irving Minkin, Aaron Ambalu, Robert Pauls and Sheldon Lobel.

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

119-07-BZ

APPLICANT – Sheldon Lobel, P.C., for SCO Family of Services, owner.

SUBJECT – Application May 11, 2007 – Variance under (§72-21) to allow a four-story community facility building (UG4A) to violate regulations for use (§42-10), rear yard (§43-26) and parking (§44-21). M1-2 district.

PREMISES AFFECTED – 443 39th Street, northern side of 39th Street, midblock between 4th Avenue and 5th Avenue, Block 705, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Richard Lobel.

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

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.

For Opposition: Judith Barron.

For Administration: Althea Binder, Department of Buildings.

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

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

238-07-BZ

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

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

PREMISES AFFECTED – 5-11 47th Avenue, easterly half of Block 28 on the east side of Fifth Street between 46th Road and 47th Avenue, 135-180' west of Vernon Boulevard, Block 28, Lots 13, 15, 17, 18, 21 and 38, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Howard Goldman, and Michael S. Bogin.

For Opposition: Douglas Otto, Tom Paino, Kenneth Greenberg, Tony Vaccaro, Kim Hosea, Ron Williamson, Lorence A. Long, Anna Finn, Vincent Pitaro, Jim Jenkins, Tim K, Diane Hendry and Nigel Rollings.

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 September 23, 2008, at 1:30 P.M., for decision, hearing closed.

257-07-BZ

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

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

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

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Robert Alessi.

For Opposition: Joanne Seminara.

THE VOTE TO REOPEN HEARING –

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

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 September 9, 2008, at 1:30 P.M., for decision, hearing closed.

291-07-BZ

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

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

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

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Eric Palatnik

ACTION OF THE BOARD – Laid over to

September 23, 2008, at 1:30 P.M., for continued hearing.

41-08-BZ

APPLICANT – Omnipoint Communications Inc., for Mid Queens Ltd., owner; Omnipoint Communications Inc., lessee.

SUBJECT – Application February 27, 2008 – Special Permit (§73-30) to permit a proposed 65 foot non-accessory radio tower and related equipment at grade.

PREMISES AFFECTED – 64-35 223rd Place, Block 7658, Lot 2, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Robert Guardioso.

For Opposition: Antonio Whitaker and Steven E.

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 September 16, 2008, at 1:30 P.M., for decision, hearing closed.

76-08-BZ

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

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

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

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Eric Palatnik

ACTION OF THE BOARD – Laid over to September 23, 2008, at 1:30 P.M., for continued hearing.

78-08-BZ

APPLICANT – Flora Edwards, Esq., for SBCSICA, owner.

SUBJECT – Application April 3, 2008 – Variance (§72-21) to permit a new community facility building (South Bronx Charter School). The proposal is contrary to §§123-62 (Maximum floor area ratio for community facilities), 24-11 (Maximum floor area ratio and percentage of lot coverage) and 123-662 (b)(4) (As it relates to street wall height for all buildings in Special Mixed-Use Districts with R6, R7, R8 and R10 district designations). MX-1 (M1-2/R6A).

PREMISES AFFECTED – 611-617 East 133rd Street, Block 2546, Lot 27, Borough of Bronx.

COMMUNITY BOARD #1BX

APPEARANCES –

For Applicant: Fredrick A. Becker.

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

79-08-BZ

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

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

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

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Eric Palatnik

ACTION OF THE BOARD – Laid over to September 23, 2008, at 1:30 P.M., for continued hearing.

102-08-BZ

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

SUBJECT – Application April 21, 2008 – Variance (§72-21) for the construction of a one family residence on a vacant undersized lot that does not provide sufficient side yards (§23-461) and does not provide one of the required parking spaces (§25-22) within a R3-1 zoning Low Density Growth Management district.

PREMISES AFFECTED – 103 Beachview Avenue, 40' west of intersection of Beachview Avenue and Idlease Place, Block 3724, Lot 30, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam W. Rothkrug.

For Opposition: Linda Bukhardt.

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 September 16, 2008, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: 4:50 P.M.