
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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April 16, 2009

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DOCKETS

New Case Filed Up to April 7, 2009

51-09-BZ

2032 East 17th Street, East 17th Street and Avenue T., Block 7321, Lot(s) 20, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) for the enlargement of a single family home. R5 district.

52-09-BZ

1438 East 26 Street, West Side of East 26th Street between Avenue N & Avenue O., Block 7679, Lot(s) 66, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) for the enlargement of a single family home. R2 district.

53-09-BZ

540 Schenck Avenue, Southwest corner of Dumont Avenue, between Schenck Avenue & Hendrix Street., Block 4075, Lot(s) 118, Borough of **Brooklyn, Community Board: 5**. Variance to allow a three-family residential building, contrary to use regulations. R5 district.

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

APRIL 28, 2009, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 28, 2009, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

727-86-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Suco Selimaj, owner.

SUBJECT – Application January 24, 2009 – Extension of Term of a previously granted Variance (§72-21) to allow an eating and drinking establishment (UG6) at the cellar, basement and first floor of a three story building in an R8B zoning district which expired on January 17, 2009.

PREMISES AFFECTED – 240 East 58th Street, south side of East 58th Street, 140' west of Second Avenue, Block 1331, Lot 30, Borough of Manhattan.

COMMUNITY BOARD #6M

185-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Raymond Chakkalo, owner.

SUBJECT – Application March 23, 2009 – Extension of Time/waiver to complete construction of a previously granted Special Permit (§73-622) for the enlargement of an existing home in an R4 (Special Ocean Parkway) district which expired on January 11, 2009.

PREMISES AFFECTED – 2275 East 2nd Street, east side of 2nd Street, between Avenue W and Gravesend Neck Road, Block 7154, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEALS CALENDAR

267-08-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Robert & Mary Baldrian, owners.

SUBJECT – Application October 31, 2008 – Proposed reconstruction and enlargement of an existing single family home located within the bed of a mapped street (Oceanside Avenue) contrary to General City Law Section 35 and does not front a mapped street contrary to General City Law Section 36 with a private disposal system located within the bed of the service road contrary to Department of Buildings policy. R4 zoning district

PREMISES AFFECTED – 2 Devon Walk, east side of Devon Walk, 24' south of paved Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

5-09-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Michele Nagel, lessee.

SUBJECT – Application January 13, 2009 – Proposed reconstruction and enlargement of an existing single family not fronting a mapped street and the upgrade of a private disposal system is in the bed of a private service road contrary to Department of Buildings Policy. R4 Zoning District.

PREMISES AFFECTED – 7 Manville Lane, north side of Manville Lane, 206.70' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APRIL 28, 2009, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, April 28, 2009, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

259-08-BZ

APPLICANT – Jeffrey A. Chester, Esq., for AAC Douglaston Plaza, LLC, owner.

SUBJECT – Application October 20, 2008 – Variance (§72-21) to permit the proposed expansion to an existing supermarket. The proposal is contrary to ZR §52-41 (increase in the degree of non-conforming use of the building. R4 district.

PREMISES AFFECTED – 242-02 61st Avenue, Douglaston Parkway at 61st Avenue, Block 8266, Lot 185, Borough of Queens.

COMMUNITY BOARD #11Q

314-08-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 437-51 West 13th Street, LLC, owner.

SUBJECT – Application December 22, 2008 – Variance pursuant to §72-21 to allow for the construction of a 12 story commercial building contrary to bulk regulations §§43-12, 43-43, 43-26 and use regulations §42-12. M1-5 District.

PREMISES AFFECTED – 437-447 West 13th Street, 862-868 Washington Street, southeast portion, block bounded by West 13th, West 14th and Washington Streets, Tenth Avenue, Block 646, Lots 19, 20, Borough of Manhattan.

COMMUNITY BOARD #2M

CALENDAR

8-09-BZ

APPLICANT – Sheldon Lobel, P.C., for CMG Group, LLC, owner; Facial and Tanning Consulting, Inc., lessee.

SUBJECT – Application January 22, 2009 – Special Permit (§73-36) to allow the operation of a physical culture establishment on the second floor of an existing two-story commercial building. The proposal is contrary to ZR Section 32-10. C6-4 district.

PREMISES AFFECTED – 125 Fulton Street, north side of Fulton Street, between Nassau Street and William Street, Block 91, Lot 11, Borough of Manhattan.

COMMUNITY BOARD #1M

20-09-BZ

APPLICANT – MetroPCS New York, LLC, for Valerie Arms Apt. Corp., owner; MetroPCS New York, LLC, lessee.

SUBJECT – Application February 10, 2009 – Special Permit (§§73-03, 73-30), to permit in an R3-2 within a C1-2 district, a non-accessory radio tower.

PREMISES AFFECTED – 54-44 Little Neck Parkway, north west of intersection of Little Neck Parkway and Nassau Boulevard, Block 8256, Lot 108, Borough of Queens.

COMMUNITY BOARD #11Q

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, APRIL 7, 2009
10:00 A.M.**

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

709-55-BZ

APPLICANT – Walter T. Gorman, P.E., for LMT Realty LLC, owner; Mobil Oil Corporation, lessee.

SUBJECT – Application February 23, 2009 – Extension of Time to obtain a Certificate of Occupancy for a Gasoline Service Station (Mobil), in a C1-2/R4 zoning district, which expired on March 24, 2009.

PREMISES AFFECTED – 2000 Rockaway Parkway, north west of Seaview Avenue, Block 8299, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Cindy Bachan.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy for a gasoline service station, which expired on March 23, 2009; and

WHEREAS, a public hearing was held on this application on March 24 after due notice by publication in *The City Record*, and then to decision on April 7, 2009; and

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

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

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

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

WHEREAS, on September 23, 2008, the Board granted the applicant a six-month extension of time to obtain a certificate of occupancy, to expire on March 23, 2009, and legalized existing conditions that did not conform to the previously approved plans; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained by the stipulated date due to an outstanding Environmental Control Board (“ECB”) violation; and

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

WHEREAS, based upon its review of the record, the Board finds the requested extension of time to obtain a certificate of occupancy 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 October 16, 1956, so that as amended this portion of the resolution shall read: “to grant a six-month extension of time to obtain a certificate of occupancy, to expire on October 7, 2009; *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 a certificate of occupancy shall be obtained by October 7, 2009;

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. 310066781)

Adopted by the Board of Standards and Appeals April 7, 2009.

111-71-BZ

APPLICANT – Walter T. Gorman, P.E., for Motiva Enterprises LLC, owner; Erol Bayrdktar, lessee.

SUBJECT – Application March 16, 2009 – Extension of Time/waiver to obtain a Certificate of Occupancy for a UG16 Gasoline Service Station (Shell) with accessory convenience store, in a C2-2/R3-2 zoning district, which expired on October 16, 1997.

PREMISES AFFECTED – 185-25 North Conduit Avenue, northwest corner of Springfield Boulevard, Block 13094, Lot p/o 63, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Cindy Bachan.

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 April 28, 2009, at 10 A.M., for decision, hearing closed.

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336-98-BZ & 337-98-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP for 312 Flatbush Avenue LLC, owner; AGT Crunch, lessee.

SUBJECT – Application December 31, 2008 – Application filed pursuant to §73-11to Extend the term of a special permit granted pursuant to §73-36 authorizing a physical culture establishment (PCE) (Crunch Fitness), extend the PCE to include additional area in the cellar and on the first floor, permit a change in operator and extend the time to obtain a certificate of occupancy. The subject site is located in a C2-4 zoning district.

PREMISES AFFECTED – 312/18 & 324/34 Flatbush Avenue, 157' west of the northwest corner of the intersection of Flatbush Avenue and Sterling Place, Block 1057, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD # 6BK

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to April 28, 2009, at 10 A.M., for continued hearing.

301-03-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Isabell Wassner and Leonard Wassner, owner.

SUBJECT – Application February 20, 2009 – Extension of Time/waiver to Complete Construction and obtain a Certificate of Occupancy of previously granted Special Permit (§73-622) for the enlargement of single family home and an Amendment to modify the previously approved plans, in an R2 zoning district, which expired on January 13, 2008.

PREMISES AFFECTED – 1103 East 22nd Street, between Avenue J and Avenue K, Block 7604, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to April 28, 2009, at 10 A.M., for continued hearing.

APPEALS CALENDAR

245-08-BZY

APPLICANT – Sheldon Lobel, P.C., for Airport Hotels, LLC, owner.

SUBJECT – Application October 23, 2008 – Extension of time to complete construction (§11-331) of minor development commenced under the prior C2-2/R3-2 district regulations. C1-1/R3X.

PREMISES AFFECTED – 219-05 North Conduit Boulevard, bounded by Springfield Boulevard, 144th Avenue and North Conduit Boulevard, Block 13085, Lot 4, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

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

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Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application under ZR §11-331 to rescind a stop work order, to renew a building permit and to extend the time for the completion of the foundation of a three-story (Use Group 5) 65-room transient hotel; and

WHEREAS, a public hearing was held on this application on January 13, 2009, after due notice by publication in *The City Record*, with a continued hearing on February 24, 2009, and then to decision on April 7, 2009; and

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

WHEREAS, Community Board 13, Queens recommends disapproval of this application; and

WHEREAS, City Council Member James Sanders, Jr. and City Council Member Leroy Comrie provided written and oral testimony in opposition to the application; and

WHEREAS, representatives of the Springfield Gardens Taxpayers & Citizens Association, Federated Blocks of Laurelton, the Jamaica chapter of the National Association for the Advancement of Colored People and the Concerned Citizens of Laurelton also testified in opposition to this application; and

WHEREAS, a number of neighborhood residents also testified in opposition to the application; and

WHEREAS, collectively, the parties who provided testimony in opposition to the proposal are the “Opposition;” and

WHEREAS, specifically, the Opposition raised the following concerns: (1) excavation was not completed; (2) substantial progress on the foundation was not made; (3) construction took place after working hours or when work was stopped; (4) the proposed sewer system may not comply with applicable regulations; and (5) the proposed hotel is incompatible with neighborhood character; and

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WHEREAS, the subject site is located on a through block site bounded by 144th Avenue to the north, Springfield Boulevard to the west and North Conduit Avenue to the south; and

WHEREAS, the site has a frontage of approximately 283 feet on 144th Avenue, 120 feet on Springfield Boulevard and 303 feet on North Conduit Avenue; and a total lot area of approximately 18,383 sq. ft.; and

WHEREAS, the site is proposed to be occupied with a three-story transient hotel with one subcellar (the "Building"); and

WHEREAS, the Building is proposed to have a total floor area of approximately 18,267 sq. ft. (1.0 FAR); and

WHEREAS, the site was formerly located within a C2-2 (R3-2) zoning district; and

WHEREAS, on May 15, 2008, New Building Permit No. 402590665-01-NB (the "Permit") was issued by the Department of Buildings ("DOB") permitting construction of the Building; and

WHEREAS, on September 4, 2008 (hereinafter, the "Enactment Date"), the City Council voted to enact the Laurelton Rezoning, which changed the zoning district to C1-1 (R3X); and

WHEREAS, the applicant represents that the Building complies with the former C2-2 (R3-2) zoning district parameters; specifically, the proposed use as a Use Group 5 transient hotel; and

WHEREAS, because the Building does not conform to the permitted uses of the C1-1 (R3X) zoning district and work on the foundation was not completed as of the Enactment Date, the Permit lapsed by operation of law; and

WHEREAS, additionally, DOB issued a Stop Work Order on September 9, 2008 halting work on the Building; and

WHEREAS, the applicant now applies to the Board to reinstate the Permit pursuant to ZR § 11-331, so that the proposed development may be fully constructed under the parameters of the prior C2-2 (R3-2) zoning district; and

WHEREAS, ZR § 11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued . . . to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided

that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations"; and

WHEREAS, a threshold requirement in this application is that the Permit is valid; and

WHEREAS, ZR § 11-31(a) provides that "[a] lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution;" and

WHEREAS, the record indicates that on May 15, 2008, the Permit was issued by DOB authorizing construction of the entire Building; and

WHEREAS, by letter dated January 12, 2009, DOB states that the Permit was lawfully issued; and

WHEREAS, thus, the Board finds that the Permit was lawfully issued by DOB on May 15, 2008; and

WHEREAS, accordingly, the Board finds that the record contains sufficient evidence to satisfy the findings set forth in ZR § 11-31(a) and that a decision may be rendered provided the other findings are met; and

WHEREAS, because the proposed development contemplates construction of one building, it meets the definition of a minor development; and

WHEREAS, since the proposed development is a minor development, the Board must find that excavation was completed and substantial progress was made as to the required foundation; and

WHEREAS, the applicant states that excavation was completed on July 11, 2008, and that substantial progress was made on the foundation as of the Enactment Date; and

WHEREAS, in support of this statement, the applicant has submitted affidavits by the construction manager, a construction log documenting the amount and type of work performed each day of construction, and photographs of the site; and

WHEREAS, the Opposition asserts that excavation is not complete because photographs show two large mounds of dirt on the north and west sides of the site and that the location of several pile caps to be installed require excavation; and

WHEREAS, in response, the applicant states that excavation is deemed completed under ZR § 11-331 when all soil has been excavated from the portion of the site in which the foundations are to be installed and does not require the remaining portion of the site, where the mounds of dirt are found, to be excavated or cleared; and

WHEREAS, the applicant further states that excavation of the foundation area was performed to install all the foundation elements and necessary piles, but that some excavated pile locations were backfilled to ensure site safety; and

WHEREAS, the applicant represents that for the pile caps to be installed at these locations, some soil may need to be removed; however, this would not constitute incomplete excavation (citing BSA Cal. No. 204-07-BZY); and

WHEREAS, the Board further notes that the photographs submitted by the Opposition indicate that the area within the

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foundation has been fully excavated; and

WHEREAS, the Board notes that excavated areas are often backfilled to ensure site safety and finds that the excavation performed at the site for the foundation of the Building is complete for vesting purposes under ZR § 11-331; and

WHEREAS, as to substantial progress on the foundation, the applicant states that, as of the Enactment Date, the following work had been completed: (1) 212 linear feet of shoring, constituting 100 percent of shoring; (2) 240 piles driven, constituting 100 percent of the piles; (3) 37 pile caps, constituting 93 percent of the pile caps; (4) pouring of 310 cubic yards of concrete, constituting 32 percent of the concrete to be poured; and (5) all rebar for pile caps and basement slab and 285 linear feet of rebar for grade beams, constituting 29 percent of the grade beam rebar; and

WHEREAS, as discussed below, the concrete counted toward progress on the foundation does not include concrete poured on days when work was stopped by DOB, or concrete poured on the Enactment Date; and

WHEREAS, in support of this statement, the applicant has submitted executed contracts for the foundations, invoices and cancelled checks, affidavits by the construction manager and architect, a Pile Identification Plan and Pile Driving Reports certified by an engineer; concrete delivery tickets, a foundation plan, a foundation survey dated September 5, 2008, the construction log referenced above, and photographs of the foundation work as of the Enactment Date; and

WHEREAS, the applicant has also submitted financial documents indicating that the applicant incurred \$769,020 or approximately 65 percent of the total estimated foundation cost of approximately \$1.18 million as of the Enactment Date; and

WHEREAS, the applicant represents that both the more complex foundation elements as well as the most costly foundation elements have been completed; and

WHEREAS, the applicant states that 138 days of foundation work have been completed and that 22 days of work remain, constituting 14 percent of the workdays necessary to complete the foundation; and

WHEREAS, in support of its contention that amount of work performed on the foundations of the subject site is consistent with previous Board vestings under ZR § 11-331, the applicant cites to decisions in BSA Cal. Nos. 168-05-BZY, 349-04-BZY and 202-08-BZY; and

WHEREAS, in BSA Cal. No. 168-05-BZY, the applicant had completed underpinning and a substantial share of the footing and strap beams but had installed no foundation walls; and

WHEREAS, in BSA Cal. No. 349-04-BZY, the applicant had completed footings and rebar and had poured 21 percent of the concrete but had installed no foundation walls; and

WHEREAS, in BSA Cal. No. 202-08-BZY, the applicant had driven all the piles but had installed no pile caps, mat slab or vibration isolators;

WHEREAS, the applicant represents that the aggregate of the foundation work completed at the subject site exceeds the foundation work performed in the cited cases; and

WHEREAS, the aggregated foundation work includes

work performed pursuant to an earlier permit issued for construction of a Use Group 5 transient hotel at the site which the applicant contends should be included in the measure of the completion of the foundation prior to the rezoning; and

WHEREAS, the applicant explains that on October 17, 2005, New Building Permit No. 402097529-01-NB was issued to the owner by DOB authorizing construction of a three-story transient hotel with two sub-cellars at the subject site (the “First Permit”); and

WHEREAS, the applicant states that excavation commenced on October 25, 2005 and 240 piles were driven between December 29, 2005 and January 6, 2006; and

WHEREAS, the applicant further states that after piles were driven at the site, the water table was found to be higher than anticipated and the plans were revised to eliminate one proposed subcellar level; and

WHEREAS, after approval of the revised plans on August 27, 2007, New Building Permit No. 402590665-01-NB (the “Permit”) was issued by DOB permitting construction of the Building on May 15, 2008; and

WHEREAS, an affidavit by the architect states that the foundation piles were driven pursuant to a foundation plan approved under the First Permit and that a foundation plan incorporating the piles was approved under the Permit; and

WHEREAS, the applicant states that Pile Driving Reports certified by a professional engineer evidencing that the piles were driven pursuant to the Pile Identification Plan were filed with DOB; and

WHEREAS, the Opposition argues that the work performed under the First Permit should not be considered as it was “faulty/illegal”, as evidenced by the issuance of a stop work order halting work in effect between January 20, 2006 and January 23, 2006; and

WHEREAS, in response, the applicant states that the stop work order imposed on January 19, 2006 was in response to a fence maintenance issue that was corrected and that the First Permit was never revoked; the work performed under the First Permit was therefore valid; and

WHEREAS, the applicant further states that since the First Permit was not revoked and foundation piles authorized by the First Permit were installed prior to the January 19, 2006 stop work order, that the work performed and expenses incurred under the First Permit should be considered by the Board; and

WHEREAS, the Board notes that neither DOB, nor the Opposition, has asserted that the work performed under the First Permit was inconsistent with the approved plans, the Permit or the Building Code; and

WHEREAS, the Board therefore concludes that the foundation work performed pursuant to the First Permit should be included in the measure of the completion of the foundation prior to the Enactment Date; and

WHEREAS, the Opposition also argues that work on the foundation was performed during the period when a stop work order was in effect and after working hours and should not be considered in evaluating whether substantial progress was made; and

WHEREAS, in response to the concerns raised by the

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Opposition, at hearing the Board asked the applicant to provide a detailed chronology of work done pursuant to valid permits; and

WHEREAS, based on a detailed chronology submitted by the applicant, the Board notes that stop work orders halting construction of the Building were in effect from May 21, 2008 to June 10, 2008, from July 23, 2008 to August 6, 2008 and from September 5, 2008 to the present; and

WHEREAS, the initial analyses of work completed included (i) concrete pours during August 4, 2008 and August 6, 2008 during a stop work order, based on a representation that DOB gave verbal permission to continue work; and (ii) a concrete pour on September 4, 2008, the date of the rezoning; and

WHEREAS, the applicant subsequently revised the analysis deleting the work performed on August 4, 2008 and August 6, 2008, and the work performed on the Enactment Date; and

WHEREAS, the Board notes that the Opposition was not able to document any additional after-hours work; and

WHEREAS, as to expenditures, the Opposition contends that the canceled checks submitted by the applicant are confusing and fail to establish that substantial progress was made on the foundation as of the Enactment Date; and

WHEREAS, the Board notes that the foundation survey, concrete delivery slips, photographs, and pile reports provide sufficient and credible evidence that excavation was completed and substantial progress was made on the foundation as of the Enactment Date; and

WHEREAS, the Board further notes that it has not relied on canceled checks in making the determination herein, as there is sufficient evidence substantiating the amount of work done, as well as the costs associated with that work from the contracts, as well as the other evidence in the record; and

WHEREAS, the Board has reviewed all of the applicant's representations and the submitted evidence and agrees that it establishes that substantial progress was made on the required foundation as of the Enactment Date; and

WHEREAS, the Opposition additionally argues that the proposed sewer system does not comply with Department of Environmental Protection ("DEP") requirements; and

WHEREAS, a response by the applicant states that DEP initially approved a dry well system to dispose of storm water but that after the discovery of the high water table, DEP required that a retention and release system be designed to mitigate the impacts of storm water runoff into City sewers; and

WHEREAS, the applicant further states that DEP has reviewed and approved the proposed site's proposed retention and release sewer system for the site; and

WHEREAS, the Opposition also argues that the application should be denied because the proposed hotel will be incompatible with the surrounding residential community and may attract illegal uses; and

WHEREAS, however, if the owner has met the test for a vested rights determination pursuant to ZR § 11-331, the

owner's property rights may not be negated merely because of concerns about neighborhood character and speculation of future illegal activities; and

WHEREAS, while the Board is not swayed by any of the Opposition's arguments, it nevertheless understands that the community residents and elected officials worked diligently on the Laurelton Rezoning and that the Building does not comply with the new zoning parameters; and

WHEREAS, accordingly, based upon its consideration of the arguments made by the applicant and the Opposition, as outlined above, as well as its consideration of the entire record, the Board finds that the owner has met the standard for vested rights under ZR § 11-331 and is entitled to the requested reinstatement of the Permit, and all other related permits necessary to complete construction; and

WHEREAS, because the Board finds that excavation was complete and that substantial progress had been made on the foundation, it concludes that the applicant has adequately satisfied all the requirements of ZR § 11-331.

Therefore it is Resolved that this application to renew New Building Permit No. 402590665-01-NB pursuant to ZR § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of six months from the date of this resolution, to expire on October 7, 2009.

Adopted by the Board of Standards and Appeals, April 7, 2009.

147-08-BZY

APPLICANT – Hui-Li Xu, for Beachway Equities, Inc., owner.

SUBJECT – Application May 23, 2008 – Extension of time (§11-331) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on April 30, 2008. R5 zoning district.

PREMISES AFFECTED – 95-04 Allendale Street, between Atlantic Avenue and 97th Avenue, Block 10007, Lot 108, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 12, 2009, at 10 A.M., for continued hearing.

180-08-A thru 184-08-A

APPLICANT – Tobias Guggenheimer Architect, P.C., for Schley Avenue Development, LLC, owner.

SUBJECT – Application July 10, 2008 – Proposed construction of Four three family homes and parking lot located within the bed of mapped street (Shore Drive) contrary to General City Law Section 35. C3A zoning district.

PREMISES AFFECTED – 3236, 3238, 3240, 3242 and 3244 Schley Avenue, south east corner of Schley Avenue and Clarence Avenue, Block 5490, Lot (tent.) 7, 108, 109, 110, 111, Borough of Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

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For Applicant: Joanna Stocia and Jim Heineman.
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 April 28,
2009, at 10 A.M., for decision, hearing closed.

REGULAR MEETING
TUESDAY AFTERNOON, APRIL 7, 2009
1:30 P.M.

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

ZONING CALENDAR

215-08-BZ

CEQR #09-BSA-018X

APPLICANT – Davidoff Malito & Hutcher, LLP by
Howard S. Weiss, for SoBRO Development Corp., owners.
SUBJECT – Application August 20, 2008 – Variance (§72-
21) to allow a new ten (10) story mixed-use building
containing ninety eight (98) dwelling units and ground floor
retail use; contrary to use regulations (§32-00). C8-3 district.
PREMISES AFFECTED – 1778-1800 Southern Boulevard,
intersection of East 174th Street, Boston Post Road and
Southern Boulevard, Block 2984, Lots 1 & 7, Borough of
Bronx.

COMMUNITY BOARD #3BX

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Bronx Borough
Commissioner, dated July 18, 2008, acting on Department
of Buildings Application No. 210058088, reads, in pertinent
part:

“Proposed residential occupancy, Use Group 2 in a
C8-3 Zoning District is not permitted as per ZR 32-
00 -- obtain Board of Standards and Appeals (BSA)
approval”; and

WHEREAS, this is an application under ZR § 72-21, to
permit, within a C8-3 zoning district, the proposed construction
of a seven-story mixed-use residential / commercial /
community facility building, contrary to ZR § 32-00; and

WHEREAS, a public hearing was held on this
application on January 27, 2009 after due notice by publication
in *The City Record*, with a continued hearing on February 24,
2009 and then to decision on April 7, 2009; and

WHEREAS, this application is brought on behalf of the
South Bronx Overall Economic Development Corporation
(“SoBRO”), a not-for-profit entity; and

WHEREAS, Community Board 3, Bronx, recommends
approval of this application, conditioned on SoBRO’s
agreement to provide enhanced perimeter lighting and
windows providing sound attenuation; and

WHEREAS, City Council Member Joel Rivera provided
a letter recommending approval of this application; and

WHEREAS, Assemblyman Michael Benjamin and
Assemblyman Ruben Diaz, Jr. submitted letters in support of
the proposal; and

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

WHEREAS, the site is located at the intersection of East
174th Street, Boston Post Road and Southern Boulevard and
has a lot area of 11,776 sq. ft.; and

WHEREAS, the site is vacant and with remnants of a
gasoline service station that formerly occupied Lot 1; and

WHEREAS, the site consists of Tax Lot 1 and Tax Lot 7,
which were under separate ownership on December 15, 1961;
and

WHEREAS, Lot 1 has been under the jurisdiction of the
Board since September 23, 1932 when, under BSA Cal. No.
251-32-BZ, the Board granted a variance to permit the
alteration of an existing building for the operation an
automotive repair business; and

WHEREAS, most recently, on October 13, 1987, under
BSA Cal. No. 535-87-A, the Board granted an Administrative
Appeal to permit the operation of a self-service gasoline station
on Lot 1, contrary to Chapter 27-4081(b) of the NYC
Administrative Code; and

WHEREAS, the applicant states that operation of the
automotive service station was discontinued approximately five
years ago and that Lot 7, formerly occupied by a car wash, has
been vacant since about 1993; and

WHEREAS, the applicant proposes to construct a seven-
story mixed use residential/commercial/ community facility
building on the subject site; and

WHEREAS, the applicant proposes to develop 68 Use
Group 2 residential (studio, one-bedroom and two bedroom)
units ranging in size from 494 sq. ft. to 892 sq. ft.; and

WHEREAS, however, since the site is within a C8-3
zoning district, which does not permit residential development
as of right, the requested use waiver is required; and

WHEREAS, the proposed building has the following
parameters: a total floor area of 68,336 sq. ft. (FAR of 5.81),
including 58,241 sq. ft. of residential floor area (FAR of 4.95);
9,280 sq. ft. of ground floor retail floor area (FAR of 0.79), and
815 sq. ft. of community facility floor area (FAR of 0.07); a
total height of 69’-0” and a terrace setback at the western
portion of the seventh floor; and

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WHEREAS, the applicant states that the following are unique physical conditions which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: (1) the site's triangular shape; (2) the site's subsurface contamination and resultant need for remediation; (3) the site's high water table; and (4) the adjacency of an elevated subway track structure; and

WHEREAS, as to the site's shape, the applicant states that the triangular shape of the site limits the floor plates for a conforming commercial development; and

WHEREAS, because of the large amount of street frontage in relation to the depth of the lot, there is a high ratio of exterior walls to usable interior space which increases the cost of construction; and

WHEREAS, the applicant states that premium construction costs are associated with the need for such a high proportion of exterior walls; and

WHEREAS, the applicant represents that the irregular configuration of the site would not accommodate efficient floor plates for a conforming development and constrains its development potential; and

WHEREAS, the applicant further represents that the hardship created by the irregular configuration and its consequentially decreased marketability is evidenced by its complete vacancy over the past five years and partial vacancy for 15 years; and

WHEREAS, as to the history of use at the site, as noted above, the site was occupied by an automotive service station for more than sixty years; and

WHEREAS, accordingly, a Phase I Environmental Assessment and Remedial Action Work Plan identified volatile organic compounds associated with the historic use of automotive repair and vehicle storage and metals in the groundwater of the site and in soil vapor above ambient air at the site; and

WHEREAS, the applicant states that as a consequence of its contamination, extracted groundwater must be containerized for offsite disposal or treated in conformance with Department of Environmental Protection requirements; and

WHEREAS, the applicant further states that groundwater at the site was measured from six to ten feet below land surface; and

WHEREAS, the applicant represents that dewatering with the use of multiple sump pumps, well points or other types of dewatering systems will therefore be required during excavation and foundation construction below the groundwater table; and

WHEREAS, the applicant further represents that the unusually high water table will therefore also add construction and maintenance premium costs to the development of the site; and

WHEREAS, the applicant states that an additional hardship is created by the adjacent elevated subway tracts along its Boston Post Road frontage; and

WHEREAS, the applicant represents that this condition requires extraordinary measures to safeguard the elevated structure during excavation; and

WHEREAS, the applicant states that, based on a report by its consulting engineer and discussion with the New York City Transit Authority ("NYCTA"), drilled soldier beams and a lagging wall will be required along Southern Boulevard during excavation to support the soil load; and

WHEREAS, the applicant further states that the NYCTA additionally will require the proposed dewatering system, foundation walls and construction equipment to meet particular engineering specifications; and

WHEREAS, NYCTA review and approval is also anticipated to impose fees for review and inspection, and an expense for the installation of monitoring devices at the project site during construction; and

WHEREAS, the applicant represents that any conforming development at the site would be burdened by the irregular shape of the site, the subsoil conditions, and the need to protect the elevated subway structure; and

WHEREAS, the applicant states that the premium construction costs associated with remediation of the subsurface contamination, dewatering, and protecting the elevated subway structure are approximately \$2.7 million; and

WHEREAS, the Board agrees that these unique physical conditions create practical difficulties and unnecessary hardship in developing the site in strict conformance with the applicable zoning regulations; and

WHEREAS, the applicant also states that a use variance is requested based on SoBRO's programmatic need to provide affordable housing to 68 households with low and moderate incomes; and

WHEREAS, the applicant states that SoBRO is seeking financing from State and City programs including the Department of Housing Preservation and Development ("HPD") Housing Trust Fund and Participation Loan Program, the Housing Development Corporation and the Division of Housing and Community Renewal Trust Fund to subsidize the proposed development; and

WHEREAS, a letter dated January 23, 2009 from the HPD Assistant Commissioner for Development confirms that financing of the proposed development is contemplated by the agency; and

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

WHEREAS, the applicant need not address ZR § 72-21(b) since it is a not-for-profit organization and the development will be in furtherance of its not-for-profit mission; and

WHEREAS, however, the applicant analyzed two as-of-right alternatives: a four-story and cellar community facility building and a one-story and cellar commercial retail building; and

WHEREAS, the financial analysis indicates that neither of the as-of-right scenarios are financially viable due to the premium costs associated with the unique conditions of the site, while an as-of-right commercial retail building without the

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associated premium costs would be financially viable; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant states that the surrounding area is characterized by a mix of residential, commercial and manufacturing uses; and

WHEREAS, as to residential use, the applicant states that R7-1 zoning districts are mapped to the north, east and south of the subject site and that there is extensive surrounding residential development; and

WHEREAS, the proposed building will have a floor area of 68,336 sq. ft. and an FAR of 5.81; and

WHEREAS, the applicant represents that the proposed bulk is consistent with the permitted bulk for an as of right Use Group 4 community facility building in the C8-3 zoning district, which would be permitted a maximum 6.5 FAR; and

WHEREAS, specifically, a building with a floor area of 76,554 could be built as-of-right; and

WHEREAS, the applicant represents that the 69'-0" height of the proposed seven-story building is also consistent with that of the surrounding area; and

WHEREAS, in response to a request by the Board, the applicant provided a graphical representation of the buildings between the Cross Bronx Expressway and East 173rd Street indicating that a substantial number of buildings have heights ranging between 50 and 70 feet; and

WHEREAS, the applicant further represents that, because of varying elevations, nearby buildings which are shorter than the proposed building appear much taller and have a height that is comparable to that of the proposed building; and

WHEREAS, as to the ground floor commercial use, the applicant notes that the proposed as-of-right commercial use on the first floor fits into the neighborhood character; and

WHEREAS, the applicant states that a C4-2 district which permits commercial and residential development is located immediately to the east of the site and that commercial overlay districts are mapped along East 174th Street in the R7-1 district to the south of the site, as well as on Boston Post Road immediately to the southwest, and along Southern Boulevard immediately to the southeast; and

WHEREAS, the applicant additionally states that the block to its immediate south bounded by Boston Post Road, Southern Boulevard and 173rd Street is located within an R7-1 district that is mapped with a commercial overlay; and

WHEREAS, as to parking, the applicant states that the low and moderate income residents of the proposed building are expected to generate limited parking demand; and

WHEREAS, the applicant further states that parking demand can be accommodated by its future housing development at 1825 Boston Post Road across East 175th Street ("Crotona Plaza") which will provide 150 parking spaces, forty percent more than required by the zoning, and that it will continue to explore additional parking opportunities for the tenants of the subject site; 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; and

WHEREAS, as discussed above, the applicant submitted an analysis of two as-of-right alternatives and determined that neither could be supported financially; and

WHEREAS, the applicant initially proposed a ten-story 98-unit building with a total floor area of 94,147 sq. ft. (FAR of 8.0) and a total height of 96'-0"; and

WHEREAS, prior to the hearing, the applicant revised the proposal to provide a seven-story building with a total floor area 68,336 (FAR of 5.81), and a total height of 69'-0"; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford relief and allow SoBRO to carry out its stated needs; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 09BSA018X, dated March 5, 2009; and

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

WHEREAS, the New York City Department of Environmental Protection ("DEP") Office of Environmental Planning and Assessment has evaluated the following submissions from the Applicant: (1) a March 5, 2009 Environmental Assessment Statement; (2) an October 2007 Phase I Environmental Site Assessment; and (3) a June 2008 Remedial Investigation report; and

WHEREAS, the applicant has agreed to implement hazardous materials remediation measures outlined in the June 2008 Remedial Investigation report, pursuant to a Restrictive Declaration executed on March 4, 2009 and submitted to be recorded against the subject property on March 12, 2009; and

WHEREAS, after its approval of a Remedial Action Plan (RAP) and a Construction Health & Safety Plan, DEP will remit a Notice to Proceed to the Department of Buildings ("DOB"); and

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

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

WHEREAS, DEP has reviewed the applicant's March 5, 2009 EAS and March 13, 2009 Revised Noise Chapter and has determined that a minimum window/wall noise attenuation of 35 dBA is required in the proposed building to achieve an interior noise level of 45 dBA; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within a C8-3 zoning district, the proposed construction of a seven-story mixed-use residential / commercial / community facility building, contrary to ZR § 32-00, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 9, 2009"-twelve (12) sheets; and *on further condition*:

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

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

THAT the parameters of the proposed building shall be: seven stories, a total floor area of 68,336 sq. ft. (FAR of 5.81); a community facility floor area of 518 sq. ft. (FAR of 0.07); a commercial floor area of 9,280 sq. ft. (FAR of 0.79); and a residential floor area of 58,241 sq. ft. (FAR of 4.95); a street wall height and total height (without bulkhead) of 69'-0" and a terrace setback at the western portion of the seventh floor;

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

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

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

THAT a minimum window/wall noise attenuation of 35 dBA shall be installed in and maintained in the proposed building; and

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

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

THAT construction shall proceed in accordance with ZR § 72-23; 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, April 7, 2009.

216-08-BZ

APPLICANT – Eric Palatnik, P.C., for Valeri Gerval, owner.

SUBJECT – Application August 22, 2008 – Special Permit (§73-622) In-Part Legalization for the enlargement and modification of a single family home. This application seeks to vary floor area, open space and lot coverage (§23-141) and side yard (§23-461) in an R3-1 zoning district.

PREMISES AFFECTED – 1624 Shore Boulevard, Shore Boulevard and Oxford Street, Block 8757, Lot 88, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 9, 2009, acting on Department of Buildings Application No. 300956044, reads in pertinent part:

1. Proposed floor area ratio is contrary to ZR 23-141(a).
2. Proposed open space is contrary to ZR 23-141(a).
3. Proposed lot coverage is contrary to ZR 23-141(a).
4. Proposed side yard is contrary to ZR 23-461.
5. Proposed front yard is contrary to ZR 23-45"; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3-1 zoning district, the proposed partial legalization and modification of a two-story and attic single-family home that exceeds the permitted floor area ratio (FAR) and lot coverage requirements and does not provide the required open space, side yard and front yard, contrary to ZR §§ 23-141(a), 23-461 and 23-45; and

WHEREAS, a public hearing was held on this application on November 25, 2008, after due notice by publication in *The City Record*, with continued hearings on January 13, 2009, February 10, 2009, March 3, 2009 and March 24, 2009, and then to decision on April 7, 2009; and

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

WHEREAS, Community Board 15, Brooklyn,

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recommends disapproval of the application; and

WHEREAS, the Manhattan Beach Community Group provided written and oral testimony recommending disapproval of the application; and

WHEREAS, the subject site is a corner lot located on the southwest corner of Shore Boulevard and Oxford Street, in an R3-1 zoning district; and

WHEREAS, the subject site has a frontage of approximately 25 feet on Shore Boulevard and a frontage of approximately 90 feet on Oxford Street; and

WHEREAS, the site has a total lot area of 2,249 sq. ft. and is currently occupied by a two-story and attic single-family home (the "existing home") containing 2,366 sq. ft. of floor area (1.05 FAR); and

WHEREAS, the applicant seeks a partial legalization of the existing home, including waivers to permit a floor area of 1,911 sq. ft.; an FAR of 0.85 FAR (0.6 FAR is the maximum permitted with an attic bonus); an open space ratio of 0.58 (0.65 is the minimum required); lot coverage of 42 percent (35 percent is the maximum permitted); a side yard of 3'-1" along the western lot line (5'-0" is the minimum required); and a front yard of 3'-1 1/4" along Oxford Street (10'-0" is the minimum required); and

WHEREAS, on August 2, 2005, the applicant was issued a building permit by the Department of Buildings ("DOB") authorizing construction of a two-story home at the site pursuant to professionally-certified plans; and

WHEREAS, on May 6, 2006, a stop work order was issued halting construction based on a finding by DOB that the existing home was non-compliant with the zoning requirements for FAR, attic, balcony, and front and side yard; and

WHEREAS, to legalize the existing home, which was built within the footprint of a building formerly on the site, the applicant initially sought a special permit under ZR §§ 73-622 and 73-03 to waive FAR, open space, lot coverage, and side yard requirements and a variance under ZR § 72-21 to waive front yard requirements; and

WHEREAS, during the hearing process, the Board noted in its review of the 2005 approved DOB plans submitted by the applicant that the original building on the site had been demolished; therefore the existing building to be legalized would not qualify as an enlargement under ZR § 73-622; and

WHEREAS, further, the Board noted that the existing home exceeded the allowable perimeter wall height and building envelope under ZR § 23-631; and

WHEREAS, the applicant subsequently revised the proposal to eliminate the special permit request and reduce the floor area of the existing home by removing the attic, and to instead seek only a variance to permit an FAR of 0.85, an open space ratio of 0.58, a lot coverage of 42 percent, a side yard of 3'-1" on the western lot line, and a front yard along Oxford Street of 3'-1 1/4"; and

WHEREAS, the applicant represents that FAR, front yard, side yard, lot coverage, and open space relief are necessary for reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions which create practical difficulties

and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the site is a small corner lot with a narrow width and a shallow depth; and that the site, prior to construction of the existing home, was significantly underdeveloped with a one-story bungalow that was obsolete for living purposes; and

WHEREAS, the site has a width of 25 feet and a depth of approximately 90 feet; and

WHEREAS, the applicant represents that, prior to the construction of the existing home, the site was occupied by a one-story bungalow with a floor area of 781 sq. ft. and an FAR of 0.35 (the "original home"); and

WHEREAS, the district allows an FAR of 0.6 as-of-right (with the attic bonus), thereby permitting a maximum floor area on the subject site of 1,349 sq. ft.; and

WHEREAS, the applicant provided a 1999 site survey and an early photograph establishing that the site was occupied by a one-story bungalow with a width of approximately 19 feet, a depth of approximately 40 feet, a floor area of 781 sq. ft. and an FAR of 0.35; and

WHEREAS, as an initial proposition, the applicant states that a narrow corner lot in the subject zoning district, such as the subject site, is more burdened than a narrow interior lot; and

WHEREAS, the applicant further states that the aggregated side yard requirement of an interior lot in the R3-1 zoning district is 13 feet and that non-complying side yards can be vertically enlarged either as-of-right or under the Zoning Resolution special permit provisions; and

WHEREAS, a corner lot within the R3-1 district requires an aggregate minimum width for a required front yard and parallel side yard of 15 feet, and a non-complying front yard cannot be vertically enlarged either as-of-right or under the Zoning Resolution special permit provisions; and

WHEREAS, as to the uniqueness of these conditions, the applicant submitted an analysis of 42 corner lots in the surrounding area (the "corner lot study") that found that the subject lot is one of only four lots with a lot area of less than 2,500 sq. ft and is one of only three lots with a width of 25 feet or less, and that 37 of the 42 corner lots had larger lot widths; and

WHEREAS, the applicant further states that the corner lot study indicates that existing residential developments on similarly-sized lot areas of between 2,000 and 2,500 sq. ft. have an average floor area of 2,155 sq. ft. (1.1 FAR); and

WHEREAS, the Board notes that the original home was the smallest in size within the study area, and that 39 of the 42 lots (93 percent) are occupied with homes with floor areas in excess of 1,600 sq. ft; and

WHEREAS, the applicant states that the original home of 781 sq. ft., suffered a hardship by being disadvantaged in size as compared to other homes in the surrounding area, thus constraining its habitability; and

WHEREAS, the applicant states that any enlargement of the original home would require a variance as it would trigger waivers of lot coverage and open space requirements, or waivers of front and side yard requirements, as the

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original home was non-complying under the R3-1 zoning district; and

WHEREAS, specifically, the maximum permitted lot coverage is 35 percent and the minimum open space requirement is 65 percent -- the survey and photograph submitted by the applicant establish that the original home occupied 34.7 percent of the lot and provided 65.3 percent of the required open space; and

WHEREAS, the applicant states, therefore, that any horizontal enlargement of the original home would necessarily create non-compliances with lot coverage and open space requirements; and

WHEREAS, the applicant states that the original home consists of a non-complying front yard along Oxford Street of approximately three feet and a non-complying side yard along the western lot line of approximately three feet; and

WHEREAS, the applicants states that any complying vertical enlargement of the original home would result in a constrained floor plate at the second floor which would render such enlargement inhabitable; and

WHEREAS, an as-of-right enlargement of the original home would require a setback from the Oxford Street front lot line, thereby creating a second floor with a maximum width of 10 feet; and

WHEREAS, the Board notes that the grant of a special permit under ZR § 73-622 permits only a nominally larger floor plate with a maximum width on the second floor of 12 feet; and

WHEREAS, the applicant represents, therefore, that in order to be habitable and provide a reasonable floor plate at the second floor, a vertical enlargement would necessarily increase the degree of non-compliance with R3-1 zoning district requirements for front and side yards; and

WHEREAS, the applicant states that the 781 sq. ft. original home was the smallest in the surrounding area with no ability to enlarge without a variance and that only two other sites are similarly burdened; and

WHEREAS, the applicant further states that any new development on the site, due to the narrow width and corner lot location, would result in a complying home with a width of only ten feet; and

WHEREAS, the applicant represents that the requested waivers of lot coverage, open space, front and side yard requirements are necessary to develop the site with a habitable home; and

WHEREAS, the applicant states that the FAR waiver requested is necessary to develop a habitable home -- a complying FAR development would produce a home with 1,349 sq. ft of floor area, which is smaller than 40 of the 42 corner lot developments analyzed by the applicant; and

WHEREAS, the requested front yard, side yard, open space and lot coverage waivers would allow a home with a width of 18'-10" and a building footprint of approximately 960 sq. ft.; and the requested floor area waiver would allow a home with approximately 1,911 sq. ft.; and

WHEREAS, based upon the above, the Board finds that the cited unique physical conditions create practical difficulties in developing the site in strict compliance with the applicable floor area, front yard, side yard, open space and lot coverage

regulations; and

WHEREAS, the applicant represents that the grant of the variance is necessary to enable the owner to realize a reasonable return from the subject zoning lot; and

WHEREAS, as discussed above, the applicant states that a complying development would result in a home that is not habitable due to its inadequate size and narrow width; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that compliance with applicable zoning regulations will result in a reasonable return; and

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

WHEREAS, the applicant states that because development in the surrounding community predates adoption of the applicable zoning requirements, sites throughout the surrounding area are characterized by non-compliant front yards and floor area; and

WHEREAS, the applicant further states that the subject site is one of ten corner lots in the surrounding area that lack two required front yards; and

WHEREAS, the applicant represents that the average FAR of corner lot buildings is well in excess of 0.5, and that non-compliance with FAR requirements is particularly prevalent among sites with smaller lot areas; and

WHEREAS, as discussed earlier, the proposed floor area of 1,911 sq. ft. is less than the 2,155 sq. ft. average floor area of homes on similarly-sized lots in the surrounding area; and

WHEREAS, therefore, the Board finds that this action will neither 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 a result of the historic lot dimensions; and

WHEREAS, the initial proposal sought to legalize the existing home with a floor area of approximately 2,366 sq. ft. (1.05 FAR); and

WHEREAS, during the hearing process, the applicant modified the proposal to remove the existing attic level, thereby reducing the proposed floor area to 1,911 sq. ft. (0.85 FAR) and complying with district height and setback requirements; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21 to permit, in an R3-1 zoning district, the proposed partial legalization and modification of a two-story single-family home that exceeds the permitted floor area ratio and lot coverage and does not

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provide the required open space, side yard or front yard contrary to ZR §§ 23-141(a), 23-461 and 23-45; *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 “March 6, 2009”– (10) sheets; and *on further condition*:

THAT the parameters of the proposed home shall be as follows: a maximum floor area of 1,911 sq. ft.; an FAR of 0.85; an open space ratio of 0.58; a lot coverage of 42 percent; a side yard of 3’-1” along the western lot line; and a front yard of 3’-1 1/4” along the eastern lot line, as per the BSA-approved plans; and

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

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

THAT construction shall be substantially complete by April 7, 2010;

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, April 7, 2009.

236-08-BZ

APPLICANT – Sheldon Lobel, for Joey Aini, owner.

SUBJECT – Application September 18, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area (§23-141) and the permitted perimeter wall height (§23-631) in an R2X (OPSD) zoning district.

PREMISES AFFECTED – 1986 East 3rd Street, west side of East 3rd Street, 100’ south of Avenue S, Block 7105, Lot 152, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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 Montanez5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated August 19, 2008, acting on Department of Buildings Application No. 310129063, reads:

“Floor area exceeding the allowable floor area ratio and is contrary to Section 23-141 of the Zoning Resolution.

Height is exceeding the permitted maximum height and is contrary to Section 23-631 of the Zoning Resolution;” and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03 to permit, in an R2X zoning district within the Special Ocean Parkway District, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio and perimeter wall height, contrary to Z.R. §§ 23-141 and 23-631; and

WHEREAS, a public hearing was held on this application on November 25, 2008 after due notice by publication in *The City Record*, with continued hearings on January 13, 2009, February 10, 2009, March 3, 2009 and March 24, 2009, and then to decision on April 7, 2009; and

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

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

WHEREAS, the subject site is located on the west side of East 3rd Street, between Avenue S and Avenue T, in an R2X zoning district within the Special Ocean Parkway District; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of approximately 2,617 sq. ft. (0.65 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from approximately 2,617 sq. ft. (0.65 FAR) to approximately 4,757 sq. ft. (1.19 FAR); the maximum floor area permitted is 3,400 sq. ft. (0.85 FAR); and

WHEREAS, the applicant further seeks a waiver to ZR § 23-631 to allow an increase in the perimeter wall height; and

WHEREAS, the Board notes that a special permit under ZR § 73-622 allows a perimeter wall height to exceed the permitted height, provided that the perimeter wall height is equal to or less than the perimeter wall height of an adjacent building; and

WHEREAS, the applicant seeks an increase in the perimeter wall height to 22’-4” (a maximum perimeter wall height of 21’-0” is permitted); and

WHEREAS, in support of making the finding, the applicant provided an affidavit from an architect who measured the perimeter walls of the two adjacent homes and represents that their respective heights are between 22’-6” and 22’-8”;

WHEREAS, the applicant represents that the perimeter wall of the proposed home therefore falls within the scope of the special permit; and

WHEREAS, at hearing, the Board requested that the applicant establish that the floor area of the proposed home is consistent with the character of the neighborhood; and

WHEREAS, in response, the applicant submitted property information for a sample of six homes with FARs ranging from 1.16 to 2.52 located within a 200-foot radius of the subject site; and

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WHEREAS, the Board notes that five of the homes identified by the applicant had FARs in excess of 1.19; and

WHEREAS, the applicant represents that the proposed FAR is consistent with the surrounding neighborhood; and

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

WHEREAS, in response, the applicant submitted revised plans showing the portions of the existing home that were being retained; and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 73-622 and 73-03, to permit, in an R2X zoning district within the Special Ocean Parkway District, the proposed enlargement of a single-family home which does not comply with the zoning requirements for floor area ratio and perimeter wall height, contrary to Z.R. §§ 23-141 and 23-631; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received February 24, 2009"-(8) sheets and "March 13, 2009"-(4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of approximately 4,757 sq. ft. (1.19 FAR) and a perimeter wall height of 22'-4", as illustrated on the BSA-approved plans;

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

THAT DOB shall confirm that the portions of the existing building shall be retained as illustrated on the BSA-approved plans; and

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

THAT substantial construction be completed in

accordance with ZR § 73-70; and

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

Adopted by the Board of Standards and Appeals, April 7, 2009.

250-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Sari Dana and Edward Dana, owners.

SUBJECT – Application October 10, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area (§23-141) and less than the required rear yard (§23-47) in an R2X (OP) Special Ocean Parkway District.

PREMISES AFFECTED – 1925 East 5th Street, east side of East 5th Street between Avenues R and S, Block 6681, Lot 490, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated September 10, 2008, acting on Department of Buildings Application No. 310279070, reads:

1. Proposed floor area ratio is greater than the maximum permitted, contrary to ZR 23-141.
2. Proposed rear yard is less than minimum required rear yard of 30 feet, contrary to ZR 23-47;" and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2X zoning district within the Special Ocean Parkway District, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio and rear yard, contrary to Z.R. §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2008 after due notice by publication in *The City Record*, with continued hearings on January 27, 2009, March 3, 2009 and March 24, 2009, and then to decision on April 7, 2009; and

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

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

WHEREAS, the subject site is located on the east side of East 5th Street, between Avenue R and Avenue S, in an

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R2X zoning district within the Special Ocean Parkway District; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 2,500 sq. ft. (0.63 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,500 sq. ft. (0.63 FAR) to 5,090 sq. ft. (1.27 FAR); the maximum floor area permitted is 3,400 sq. ft. (0.85 FAR); and

WHEREAS, the proposed enlargement will maintain the existing non-complying perimeter wall height of 23'-0"; and

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

WHEREAS, the applicant initially sought an increase in the floor area from 2,500 sq. ft. (0.63 FAR) to 5,392 sq. ft. (1.35 FAR); and

WHEREAS, the Board requested that the applicant establish that the floor area of the proposed home is consistent with the character of the neighborhood; and

WHEREAS, in response, the applicant submitted photographs indicating that a home in the subject zoning district located 50 feet south of the subject premises has an FAR of 1.64, and that the rear yard of the subject premises abuts a six-story multiple dwelling with a FAR of 4.06 located in the adjacent R6A zoning district; and

WHEREAS, the applicant subsequently revised its proposal to reduce the requested floor area to 5,090 sq. ft. (1.27 FAR); and

WHEREAS, the applicant initially proposed to maintain the existing perimeter wall height of 23'-0" and total height of 38'-6 3/4" (a maximum perimeter wall height of 21'-0" and a maximum total height of 35'-0" are permitted); and

WHEREAS, at hearing, the Board raised concerns about the total height of the proposed home, specifically because the proposal included rebuilding the entire attic; and

WHEREAS, in response, the applicant reduced the total height of the proposed home to a complying height of 35'-0"; and

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

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

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

WHEREAS, therefore, the Board has determined that

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2X zoning district within the Special Ocean Parkway District, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio and rear yard, contrary to Z.R. §§ 23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received March 10, 2009"-(10) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of 5,090 sq. ft. (1.27 FAR); and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

THAT substantial construction be completed in accordance with ZR § 73-70; and

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

Adopted by the Board of Standards and Appeals, April 7, 2009.

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

APPEARANCES –

For Applicant: Mark McCarthy.

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ACTION OF THE BOARD – Laid over to May 19, 2009, at 1:30 P.M., for continued hearing.

40-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Laconia Land Corporation, owner.

SUBJECT – Application February 25, 2008 – Special Permit (§§11-411 & 11-413) to allow the re-instatement and extension the term, to amend the previous BSA approval of an Automotive Service Station (UG 16) to a Automotive Repair Facility (UG 16). The application seeks to subdivide the zoning lot and allow a portion to be developed as of right in a C1-2/R5 zoning district.

PREMISES AFFECTED – 3957 Laconia Avenue, Northwest corner of east 224th Street, Block 4871, Lot 1, Borough of Bronx.

COMMUNITY BOARD #1BX

APPEARANCES –

For Applicant: Todd Dale and Ramnarine Persaud.

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 April 28, 2009, at 1:30 P.M., for decision, hearing closed.

45-08-BZ

APPLICANT – Rampulla Associates Architects, for 65 Androvette Street, LLC, owner.

SUBJECT – Application February 29, 2008 – Variance (§72-21) to construct a four-story, 108 unit age restricted residential building contrary to use regulations (§42-00, §107-49). M1-1 District / Special South Richmond Development District.

PREMISES AFFECTED – 55 Androvette Street, north side Androvette Street, corner of Manley Street, Block 7407, Lots 1, 80, 82, (Tent. 1), Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Phil L. Rampulla.

For Opposition: Dennis D. Dell’Angelo and Dee Vanderburg.

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 May 19, 2009, at 1:30 P.M., for decision, hearing closed.

161-08-BZ

APPLICANT – Eric Palatnik, P.C., for Oleg F. Kaplun, owner.

SUBJECT – Application June 10, 2008 – Special Permit

(§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area, open space and lot coverage (§23-141) and less than the required rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 136 Dover Street, between Hampton Street and Oriental Boulevard, Block 8735, Lot 80, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik and Igor Zaslauskiy.

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 April 28, 2009, at 1:30 P.M., for decision, hearing closed.

188-08-BZ

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

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

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

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Ken Barbino.

ACTION OF THE BOARD – Laid over to May 19, 2009, at 1:30 P.M., for continued hearing.

234-08-BZ

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

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

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

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to April 28, 2009, at 1:30 P.M., for continued hearing.

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237-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Rocky Mount Baptist Church, owner; Rocky Mount Development, LLC., lessee.

SUBJECT – Application September 18, 2008 – Variance pursuant to §72-21 to allow for a 19 story community facility and residential building with 124 affordable units, contrary to bulk regulations (§23-145, §23-633, §24-552(b)) R7-2 District.

PREMISES AFFECTED – 37 Hillside Avenue, south side of Hillside Avenue, 450’ east of the intersection of Broadway and Hillside Avenue, Block 2170, Lot 118, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES –

For Applicant: Josh Rinesmith.

For Opposition: Anna Maria Jones, Office of Council Member Miguel Martinez, Jose L. Simms, Lester Carpenter, Frank Lefever, Rebecca Edmonston, Ed Orngwshi, Kebra Rhedrick, Barbara A. Jones, Jacob Kanner, Vadian Moldouan.

ACTION OF THE BOARD – Laid over to June 9, 2009, at 1:30 P.M., for continued hearing.

275-08-BZ

APPLICANT – Eric Palatnik, P.C., for South Side House LLC, owner.

SUBJECT – Application November 20, 2008 – Special Permit (§73-36) to allow a physical culture establishment on the ground floor of an existing building. The proposal is contrary to ZR §42-10. M1-2/R6 (MX8) district.

PREMISES AFFECTED – 98 South 4th Street, south side of South 4th Street, between Bedford Avenue and Berry Street, Block 2443, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 28, 2009, at 1:30 P.M., for decision, hearing closed.

276-08-BZ

APPLICANT – Alfonso Duarte, for Kesyl LLC, owner; Beljanski Wellness Center Inc., lessee.

SUBJECT – Application November 12, 2008 – Special Permit (§73-36) to allow a physical culture establishment on the sixth floor in a seven-story office building. The proposal is contrary to ZR §32-10. C5-2 district.

PREMISES AFFECTED – 150 East 55th Street, south side, 155’ east of Lexington Avenue, Block 1309, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES – None.

For Applicant: Alfonso Duarte and Kevin McCarthy.

ACTION OF THE BOARD – Laid over to May 12, 2009, at 1:30 P.M., for continued hearing.

298-08-BZ

APPLICANT – Lewis E. Garfinkel, for Abraham Zlotnick, owner.

SUBJECT – Application December 4, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (§23-141(a)) and less than the required rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1156 East 22nd Street, between Avenue J and Avenue K, Block 7603, Lot 81, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lewis E. Garfinkel.

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 April 28, 2009, at 1:30 P.M., for decision, hearing closed.

303-08-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Luciano Calandra, owner; Lou-Cal Auto Service, Inc., lessee.

SUBJECT – Application December 10, 2008 – Special Permit filed pursuant to §11-411 of the zoning resolution to re-establish an expired variance which permitted the erection and maintenance of a gasoline service station with accessory uses (UG 16) C2-2/R5-B zoning district.

PREMISES AFFECTED – 34-67 Francis Lewis Boulevard, northeast corner of 35th Avenue, Block 6077, Lot 43, Borough of Queens.

COMMUNITY BOARD # 11Q

APPEARANCES –

For Applicant: Carl A. Sulfaro.

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 April 28, 2009, at 1:30 P.M., for decision, hearing closed.

308-08-BZ

APPLICANT – Davidoff Malito & Hatcher, LLP, for 201 East 67 LLC, owner; MonQi Fitness, lessee.

SUBJECT – Application October 17, 2008 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment located on the third through fifth

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floors in a five-story building. The proposal is contrary to ZR §32-00. C1-9 district.

PREMISES AFFECTED – 201 East 67th Street, northeast corner of the intersection of Third Avenue and East 67th Street, Block 1422, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Ron Mandel.

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 May 12, 2009, at 1:30 P.M., for decision, hearing closed.

316-08-BZ

APPLICANT – Bryan Cave LLP/Robert S. Davis, for The Simons Foundation, Inc., owner.

SUBJECT – Application December 23, 2008 – Variance (§72-21) to permit the development of a three- and eight-story school building. The proposal is contrary to ZR Section 35-24c (minimum base height). R9A with a C1-5 district overlay.

PREMISES AFFECTED – 345-349 Second Avenue, a/k/a 247-249 East 20th Street, northwest corner of East 20th Street and Second Avenue, Block 901, Lots 26, 27 & 28, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 12, 2009, at 1:30 P.M., for deferred decision.

1-09-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 39-01 QB LLC c/o Rhodes Management, owner; TSI Sunnyside LLC dba New York Sports Club, lessee.

SUBJECT – Application January 2, 2009 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment on a portion of the ground floor in a three-story building. The proposal is contrary to ZR §42-00. M1-4 district.

PREMISES AFFECTED – 39-01 Queens Boulevard, northerly side of Queens Boulevard, easterly of 39th Street, Block 191, Lot 5, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to May 12, 2009, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.