
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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DIRECTORY

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194-09-BZ

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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

JULY 21, 2009, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 21, 2009, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

853-53-BZ

APPLICANT – Walter T. Gorman, P.E., for Knapp LLC, owner; ExxonMobil Corporation, lessee.
SUBJECT – Application March 4, 2009 – Extension of Time/waiver to obtain a Certificate of Occupancy for a Gasoline Service Station (Mobil) in a C-2/R3-2 which expired on January 22, 2009.
PREMISES AFFECTED – 2402/16 Knapp Street, south west corner of Avenue Z, Block 7429, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15BK

709-55-BZ

APPLICANT – Walter T. Gorman, P.E., for LMT Realty Company, owner; ExxonMobil Oaks Corporation, lessee.
SUBJECT – Application May 21, 2009 – Extension of Term to permit the continued operation of a gasoline service station (Mobil) which expires on February 2, 2010 in an R4/C1-2 zoning district.
PREMISES AFFECTED – 2000 Rockaway Parkway, northwest corner of Seaview Avenue, Block 8299, Lots 68 and 63, Borough of Brooklyn.

COMMUNITY BOARD #18BK

32-91-BZ

APPLICANT – Walter T. Gorman, P.E., for Fulvan Realty Corporation, owner; Fulton Auto Repair Incorporated, lessee.
SUBJECT – Application May 5, 2009 – Extension of Term and waiver of a Special Permit for a (UG16) Gasoline Service Station (Coastal) in a C2-4/R7A zoning district which expired on May 19, 2007.
PREMISES AFFECTED – 838/846 Fulton Street, south east corner of Vanderbilt Avenue, Block 2010, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #2BK

203-00-BZ

APPLICANT – Jay A. Segal, Greenberg Traurig, LLP, for Sunset Warehouse Condominium, owners.
SUBJECT – Application April 29, 2009 – Application to amend the variance granted in 2001 for BSA Calendar No.

203-00-BZ. The Amendment is to permit the conversion of three additional condominium units (designated originally for commercial use) on the second floor to three residential units. The proposal is contrary to sections 42-10 (use) and 42-133 (no new dwelling units allowed). M1-5 district.

PREMISES AFFECTED – 603 Greenwich Street, aka 43 Clarkson Street, northeast intersection of Greenwich and Clarkson Streets.

COMMUNITY BOARD #2M

327-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Beth Gavriel Bukharian Congregation, owner.
SUBJECT – Application June 5, 2009 – Extension of Time to Complete Construction and Extension of Time to obtain a Certificate of Occupancy of a previously granted Variance (72-21) for the enlargement of an existing Synagogue and School (Beth Gavriel), in an R1-2 zoning district, which expired on June 7, 2009.

PREMISES AFFECTED – 66-35 108th Street, east side of 108th Street, east side of 108th Street, between 66th Road and 67th Avenue, Block 2175, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEALS CALENDAR

296-08-A

APPLICANT – Gerald J. Caliendo, R.A., for Federico Camacho, owner.
SUBJECT – Application November 25, 2008 – Proposed four-story, six family dwelling with a community facility located within the bed of a mapped street contrary to General City Law Section 35. R6B Zoning District.
PREMISES AFFECTED – 45-02 111th Street, east side of 45th Avenue, 100' south of intersection of 111th Street and 45th Avenue, Block 2001, Lot 37, Borough of Queens.

COMMUNITY BOARD #4Q

179-09-A

APPLICANT – Eric Palatnik, P.C., for Zaki Turkieh, owner.
SUBJECT – Application June 1, 2009 – Proposed construction of a one story extension to an existing commercial building not fronting on a mapped street contrary to General City Law Section 36.
PREMISES AFFECTED – 252-02 Rockaway Boulevard, corner of First Street and Rockaway Boulevard, Block 1392, Lot 69, Borough of Queens.

COMMUNITY BOARD #13Q

CALENDAR

JULY 21, 2009, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 21, 2009, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

197-08-BZ

APPLICANT – Stuart A. Klein, for Carroll Gardens Realty, LLC, owner.

SUBJECT – Application July 23, 2008 – Variance (§72-21) to permit a four-story and penthouse residential building. The proposal is contrary to ZR Sections 23-141 (Floor Area, FAR & Open Space Ratio), 23-22 (Number of Dwelling Units), 23-45 (Front Yard), 23-462 (Side Yard), and 23-631 (Wall Height). R4 district.

PREMISES AFFECTED – 341/349 Troy Avenue, aka 1515 Carroll Street, corner of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

49-09-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Beth Israel Medical Center, owner; Kollel Bnei Torah, lessee.

SUBJECT – Application March 26, 2009 – Variance pursuant to 72-21 to permit the enlargement of a synagogue contrary to side yard regulations ZR 24-35(a). R4 District.

PREMISES AFFECTED – 1323 East 32nd Street, east side of East 32nd Street, between Avenue M and Kings Highway, Block 7668, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #18M

164-09-BZ

APPLICANT – Eric Palatnik, P.C., for Steve Palanker, owner.

SUBJECT – Application April 29, 2009 – Special Permit (§73-622) for the enlargement of an existing Two-Family home. This application seeks to vary floor area, lot coverage and open space (ZR 23-141) and less than the required rear yard (ZR 23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 124 Irwin Street, between Hampton Avenue and Oriental Boulevard, Block 8751, Lot 416, Borough of Brooklyn.

COMMUNITY BOARD #15BK

171-09-BZ

APPLICANT – James Chin & Associates, LLC, for Chong Duk Chung, owner.

SUBJECT – Application May 15, 2009 – Special Permit (§73-36) to allow the legalization of a physical culture establishment on a portion of the first floor in an existing 42-story mixed-use building. The proposal is contrary to section 32-10. C5-2 district.

PREMISES AFFECTED – 325 Fifth Avenue, east side of 5th Avenue, 64.3' from the corner of East 32nd and 5th Avenue, Block 862, Lot 7503, Borough of Manhattan.

COMMUNITY BOARD #5M

184-09-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Annie Daniel and Elliot Daniel, owners.

SUBJECT – Application June 4, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space, lot coverage and floor area (23-141); side yards (23-461) and rear yard (23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 4072 Bedford Avenue, west side of Bedford Avenue, between Avenue S and Avenue T, Block 7303, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JUNE 23, 2009
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

1252-79-BZ

APPLICANT – Benjamin A. Leonardi/Miele Associates, for C.B.R. LLC (Dr. Harry Kent), owner.

SUBJECT – Application April 2, 2009 – Extension of Term/Amendment (§72-01 and §72-22) to reopen for a unlimited time limit.

PREMISES AFFECTED – 23-87-91 Bell Boulevard, aka 214-05-15 & 214-19 24th Avenue, northwest south of 24th Avenue 10' east of Bell Boulevard and 24th Avenue, Block 5958, Lot 52, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an amendment of a previously granted variance permitting the construction of a second floor addition to an existing one-story medical center and the conversion of the use to a bank and office (Use Group 6), which will: (1) eliminate the term of fifteen years which expires on March 25, 2010; and (2) modify the on-site parking to allow 21 attended spaces; and

WHEREAS, a public hearing was held on this application on June 9, 2009 after due notice by publication in *The City Record*, and then to decision on June 23, 2009; and

WHEREAS, Community Board 7, Queens, recommends approval of this application, but further recommends that: (1) the term of the variance be limited to 15 years; (2) the proposed 21-car attended parking lot be provided for use by only the tenants and their clients and patients; and (3) that the gates for the parking area be locked after business hours; and

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

WHEREAS, the site is located on the northeast corner of Bell Boulevard and 24th Avenue, within an R5 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 25, 1980 when, under the subject calendar number, the Board granted a variance to permit the construction of a second floor enlargement to an existing one-story medical center and the conversion of the use to a bank and office, to expire on March 25, 1995; and

WHEREAS, on December 12, 1995, the grant was extended for a term of 15 years from the expiration of the prior grant, to expire on March 25, 2010; and

WHEREAS, the applicant now seeks to eliminate the term of the grant; and

WHEREAS, the applicant represents that the elimination of the term is appropriate because the owner has maintained the building in accordance with the conditions of the grant for 30 years; and

WHEREAS, additionally, the applicant represents that the elimination of the term helps to ensure a stable, long-term tenant, which requires a long lease with the option to renew in order to make a commitment to the site; and

WHEREAS, the applicant also requests that the Board permit it to utilize the previously-approved eight-car parking lot located on the north side of the building as an attended parking lot for 21 cars; and

WHEREAS, the applicant represents that use of the parking area as an attended parking lot is necessary because there has been a significant reduction in available street parking near the site due to development in the surrounding area, which has increased the need for additional parking on-site; and

WHEREAS, the applicant further represents that use of the attended parking lot will occupy the same amount of lot area as the current parking lot; and

WHEREAS, in response to concerns about the hours of operation, the applicant states that the gates for the parking area will be locked after business hours, which are Monday through Saturday, from 7:00 a.m. to 10:00 p.m., and Sunday, from 9:00 a.m. to 1:00 p.m.; and

WHEREAS, at hearing, the Board requested the applicant to confirm that the signage at the site is in compliance with C1 zoning district regulations and that the landscaping is in compliance with the previously-approved plans; and

WHEREAS, in response, the applicant submitted a signage analysis indicating that the site complies with C1 regulations, and states that the owners will maintain the landscaping of the site in compliance with the pre-approved plans; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to eliminate the term and modify the on-site parking is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on March 25, 1980, so that as amended this portion of the resolution shall read: “to eliminate the term and permit the previously-approved parking lot to be utilized as an attended parking lot, *on condition* that any and all work shall substantially conform to drawings filed with this application

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marked "Received April 2, 2009"-(5) sheets; and *on further condition:*

THAT use of the parking area shall be limited to tenants and their clients and patients;

THAT the parking area shall be locked after business hours;

THAT the hours of operation shall be Monday through Saturday, from 7:00 a.m. to 10:00 p.m., and Sunday from 9:00 a.m. to 1:00 p.m.;

THAT signage shall comply with C1 zoning district regulations;

THAT all landscaping shall be provided and maintained in accordance with the previously-approved plans;

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 410233242)

Adopted by the Board of Standards and Appeals, June 23, 2009.

29-05-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for R & F 350 West Broadway LLC c/o RFR Holding LLC, owner.

SUBJECT – Application May 29, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the development of an 10 story mixed-use building to be occupied by retail use on the first and second floors and residential use on floors three through ten, in an M1-5A zoning district, which expires on October 18, 2009. PREMISES AFFECTED – 350 West Broadway, west side of West Broadway, 60 feet north of the corner formed by the intersection of Grand Street and West Broadway. Block 476, Lot 75, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jim Power.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

Adopted by the Board of Standards and Appeals, June

23, 2009.

395-60-BZ

APPLICANT – Sheldon Lobel, P.C., for Ali A. Swati, owner.

SUBJECT – Application December 22, 2006 – Pursuant to ZR §11-411 & §11-413 for an Extension of Term/Amendment/waiver for the change of use from a (UG16) gasoline service station to (UG16) automotive repair establishment; to remove a portion of the subject lot from the scope of the granted variance and to request a UG6 designation for the convenience store, in an R-5 zoning district, which expired on December 9, 2005 and an Extension of Time to obtain a Certificate of Occupancy which expired on January 19, 2000.

PREMISES AFFECTED – 2557-2577 Linden Boulevard, north side of Linden Boulevard between Euclid Avenue and Pine Street, Block 4461, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Laid over to August 11, 2009, at 10 A.M., for continued hearing.

303-99-BZ

APPLICANT – Vito J. Fossella, P.E. (LPEC), for 2122 Richmond Avenue LLC, owner.

SUBJECT – Application March 26, 2009 – Extension of Time to obtain a Certificate of Occupancy which expired on September 12, 2004 and an Amendment to legalize the change in use from the previously granted Auto Sales Establishment (UG16) to Commercial/Retail (UG6) in an R3-2 zoning district.

PREMISES AFFECTED – 2122 Richmond Avenue, west side of Richmond Avenue, 111.72' north of corner formed by the intersection of Richmond Avenue and Draper Place, Block 2102, Lot 120, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Sameh M. El-Meniawy.

THE VOTE TO CLOSE HEARING –

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

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

ACTION OF THE BOARD – Laid over to July 21, 2009, at 10 A.M., for decision, hearing closed.

23-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Kehilat Sephardim of Ahavat Achim, owners.

SUBJECT – Application April 7, 2009 – Extension of Time/waiver to Complete Construction (which expired on

MINUTES

July 2, 2008) and to obtain a Certificate of Occupancy (which expired on January 2, 2009) of a previously granted Variance (§72-21) for the expansion of an existing three story synagogue with accessory Rabbi's apartment in an R-4 zoning district.

PREMISES AFFECTED – 150-62 78th Road, southeast corner of the intersection formed by 78th Road and 153rd Street, Block 6711, Lot 84, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Elizabeth Safian.

For Administration: Anthony Scaduto, Fire Department

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

441-31-BZ

APPLICANT – Ian Peter Barnes, IPB Associates, for Gurdev Singh Kang, owner.

SUBJECT – Application April 24, 2009 – Extension of Term/waiver for a Gasoline Service Station with accessory convenience store in a C2-2/R5 zoning district which expired on April 26, 2007.

PREMISES AFFECTED – 7702 Flatlands Avenue, southeast corner of Flatlands Avenue and East 77th Street, Block 8014, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES – None.

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

826-86-BZ, 827-86-BZ and 828-86-BZ

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

SUBJECT – Application April 3, 2009 – Extension of Term for a Special Permit (73-11), in an R3-2 zoning district, to permit the non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story multiple dwelling (North Shore Towers) which expired on March 28, 2008; Extension of Time to obtain a Certificate of Occupancy which expired on March 6, 2003; waiver of the rules and an Amendment to eliminate the condition that a new Certificate of Occupancy be obtained.

PREMISES AFFECTED – 269-10, 270-10, 271-10 Grand Central Parkway, Northeast corner of 26th Street. Block 8489, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Eric Palatnik.

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

149-01-BZ

APPLICANT – Eric Palatnik, P.C. for Jane Street Realty LLC, owner.

SUBJECT – Application March 26, 2009 – Amendment to a previously issued resolution that conditions the occupancy of one subsidized unit to a qualified senior citizen at a subsidized rate for a term of ten years, from the date of the issuance of the Certificate of Occupancy be removed.

PREMISES AFFECTED – 88 Jane Street, between Washington and Greenwich Streets, Block 641, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to September 22, 2009, at 10 A.M., for postponed hearing.

246-01-BZ

APPLICANT – Eric Palatnik, P.C., for Bodhi Fitness Center, Inc., owner.

SUBJECT – Application January 29, 2009 – Extension of Term for a previously granted special permit (§73-36) which permitted the operation of Physical Culture Establishment (Bodhi Fitness Center) within a M1-1/C2-2 zoning district.

The application seeks to reflect the new owner/operator of the site. The term of the previous grant expired on June 1, 2008.

PREMISES AFFECTED – 35-11 Prince Street, between 35th Avenue and Northern Boulevard, Block 4958, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

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

APPEALS CALENDAR

293-08-A & 294-08-A

APPLICANT – Juan D. Reyes, III, Riker Danzig, et al., for Alexandra Hladky, owner; Leonessa Development Corporation/Frank Volpicello, lessees.

SUBJECT – Application November 25, 2008 – Proposed construction of two semi detached two family homes located within the bed of a mapped street contrary to General City Law Section 35. R4 zoning district.

PREMISES AFFECTED – 36-40 166th Street, northwest corner of Depot Road and 166th Street, Block 5288, Lot 39, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Juan D. Reyes, III.

ACTION OF THE BOARD – Application granted on

MINUTES

condition.

THE VOTE TO GRANT –

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

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Superintendent, dated October 3, 2008 and November 21, 2008, acting on Department of Buildings Application Nos. 410166029 and 410166038, reads in pertinent part:

“The proposed buildings located partially within the mapped but unimproved section of Depot Road are contrary to General City Law Section 35 and require approval at the NYC Board of Standards and Appeals;” and

WHEREAS, this application requests permission to build two two-story semi-detached two-family residences in the bed of a mapped but unimproved section of Depot Road; and

WHEREAS, a public hearing was held on this application on June 9, 2009, after due notice by publication in the *City Record*, and then to decision on June 23, 2009; and

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

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

WHEREAS, by letter dated February 9, 2009, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated February 2, 2009, the Department of Environmental Protection (DEP) states that it has reviewed the application and advises the Board that there is an existing 12-inch diameter combined sewer, as per Amended Drainage Plan No. 33B, and an existing eight-inch diameter water main in Depot Road between 166th Street and 165th Street; and

WHEREAS, DEP requested that the applicant provide a survey showing the mapped width of Depot Road at the intersection of 166th Street, and the distance from the existing water main and combined sewer to the lot line in Depot Road between 166th Street and 165th Street; and

WHEREAS, in response, the applicant submitted a revised survey indicating that 29.68 feet of the 50-foot total width of Depot Road will be available for the maintenance and/or reconstruction of the existing 12-inch diameter combined sewer and an eight-inch diameter city water main; and

WHEREAS, by letter dated March 10, 2009, DEP states that it has reviewed the revised site plan and has no further objections; and

WHEREAS, by letter dated January 22, 2009, the Department of Transportation (DOT) states that it has reviewed the application and requires that the future construction should not block the traffic view at the intersection of Depot Road and 166th Street and it should not extend out beyond the building line or fence line in the neighborhood; and

WHEREAS, DOT requested that the applicant provide drawings that show the full width of both Station Road and 166th Street, as well as a revised plan with an overlay of the mapped street line; and

WHEREAS, in response, the applicant provided revised drawings as requested and has agreed to comply with the DOT requirements; and

WHEREAS, DOT notes that the applicant’s property is not included in the agency’s ten-year capital plan; and

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

Therefore it is Resolved that the decision of the Queens Borough Superintendent, dated October 3, 2008 and November 21, 2008, acting on Department of Buildings Application Nos. 410166029 and 410166038 is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received June 16, 2009” – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, June 23, 2009.

160-09-A

APPLICANT – Eric Palatnik, P.C., for HBC Corona, LLC, owner.

SUBJECT – Application April 22, 2009 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior C2-4 /R6 zoning district. C2-4 /R6A.

PREMISES AFFECTED – 112-15 Northern Boulevard, between 112th Street and 112th Place, Block 1706, Lot 25, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Appeal granted.

THE VOTE TO GRANT –

MINUTES

Affirmative: Chair Srinivasan, Vice-Chair Collins,
Commissioner Hinkson and Commissioner Montanez.....4
Absent: Commissioner Ottley-Brown.....1
Negative:.....0

THE RESOLUTION:

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

WHEREAS, a public hearing was held on this application on June 9, 2009 after due notice by publication in *The City Record*, and then to decision on June 23, 2009; and

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

WHEREAS, Community Board 3, Queens, recommends approval of this application, with conditions; and

WHEREAS, the subject site consists of an approximately 21,341 sq. ft. lot fronting on the north side of Northern Boulevard between 112th Street and 112th Place; and

WHEREAS, the applicant proposes to develop the site with a seven-story mixed-use hotel/residential/community facility building with a floor area of 97,112 sq. ft., consisting of approximately 100 traditional transient hotel rooms (Use Group 5) on the cellar level through third floor, approximately 63 hotel suites on the fourth through seventh floors (Use Group 2), and a community facility which will have a floor area of 1,639 sq. ft. on the first floor (the "Building"); and

WHEREAS, the subject site was formerly located within a C2-4 (R6) zoning district; and

WHEREAS, however, on March 24, 2009 (hereinafter, the "Enactment Date"), the City Council voted to adopt the North Corona 2 Rezoning, which rezoned the site to C2-4 (R6A); and

WHEREAS, the applicant represents that the Building complies with the former C2-4 (R6) zoning district parameters; specifically, the FAR of 4.53 was permitted; and

WHEREAS, because the site is now within a C2-4 (R6A) zoning district, the Building does not comply with the maximum FAR of 3.0 and

WHEREAS, on April 1, 2009, the applicant was issued a Stop Work Order by DOB, halting construction on the site; and

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

WHEREAS, on May 20, 2008, DOB issued Permit No. 410110954-01-AL, permitting shoring work for the Building (the "Shoring Permit"), and on July 9, 2008, DOB issued Permit No. 402425470-01-FO, permitting construction of the Building's foundations (the "Foundation Permit"), prior to the Enactment Date; and

WHEREAS, the applicant states that the Shoring Permit and the Foundation Permit were based on complete plans and specifications examined and approved by DOB and were filed

in conjunction with New Building Application No. 402425470 (the "New Building Permit"); and

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

WHEREAS, by letter dated June 8, 2009, DOB stated that the Foundation Permit was lawfully issued, authorizing construction of the Building prior to the Enactment Date; and

WHEREAS, the Foundation Permit lapsed by operation of law on the Enactment Date because the plans did not comply with the new C2-4 (R6A) zoning district regulations and DOB determined that the Building's foundation was not complete; and

WHEREAS, the Board notes that DOB issued a Stop Work Order related to construction safety at the site on October 3, 2008; however, DOB issued Partial Rescind Orders on October 6, 2008, December 29, 2008, and January 13, 2009 and the applicant states that no work was performed beyond the scope of the partial rescind orders at any time; and

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

WHEREAS, the applicant cites to Glenel Realty Corp. v. Worthington (4 A.D.2d 702, 703 (2d Dept. 1957), for the proposition that a vested right in the foundation of a structure "must connote a vested right to the erection and use of the specific superstructure for which the foundation was designed;" and

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

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

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

WHEREAS, as to substantial construction, the applicant states that before the Enactment Date, the owner had completed site preparation, shoring of adjacent properties, 98 percent of excavation work, and 64 percent of

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foundation work, including the pouring of 1,109 cubic yards of concrete out of an estimated total of 1,735 cubic yards required to complete the foundations of the Building; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: photographs of the site prior to the Enactment Date; an affidavit of the foundation contractor; construction contracts; invoices; cancelled checks; and concrete pour tickets; and

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

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

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

WHEREAS, the applicant states that prior to the Enactment Date, the owner expended \$6,365,700, including hard and soft costs and irrevocable commitments, out of \$33,386,354 budgeted for the entire project; and

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

WHEREAS, in relation to actual construction costs and related soft costs, the applicant specifically notes that the owner had paid \$5,397,700 for excavation, shoring, installation of foundations, architectural and engineering fees; and

WHEREAS, the applicant further states that the owner also irrevocably owes an additional \$968,000 in connection with costs committed to the development under irrevocable contracts prior to the Enactment Date; and

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

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

WHEREAS, as to the serious loss that the owner would incur if required to construct the building under the current zoning, the applicant states that the floor area that would result if vesting was not permitted would be reduced from 97,112 sq. ft. to 63,586 sq. ft. (from an FAR of 4.53 to 3.0); and

WHEREAS, the applicant states that this would lead to

financial loss because: (1) 33,525 sq. ft., or approximately 33 percent, of floor area would be lost; (2) the applicant would be required to reduce the room count from 172 to 125; and (3) further architectural and engineering costs would be required to reconfigure and redesign the building to account for this loss; and

WHEREAS, the applicant states that the decrease in the permissible floor area under the new zoning would result in the elimination of 47 hotel rooms, constituting approximately 27 percent of the hotel's rooms; and

WHEREAS, the applicant further states that, in order to realize a reasonable rate of return on the premises, the owner entered into a franchise agreement with Marriot International and that the elimination of 47 hotel rooms would jeopardize that franchise agreement; and

WHEREAS, the applicant further states that Marriot International would be unlikely to maintain the franchise agreement for a hotel with a further reduced room count, given that an earlier proposal included a 230-room hotel; and

WHEREAS, the applicant represents that Marriot International may also hold the owner in default of the franchise agreement if it were required to eliminate 47 rooms and the owner could then be liable for consequential legal costs; and

WHEREAS, the applicant states that the Marriot franchise is essential to ensuring the financial feasibility of the hotel because access to Marriot's global reservation system allows it to achieve a higher daily hotel rate and a higher occupancy rate; and

WHEREAS, as proof of the serious loss that the owner would incur if required to construct the building under the current zoning, the applicant submitted an appraisal indicating that the value of the hotel would decrease by approximately \$10,000,000; and

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

WHEREAS, the applicant submitted a proposal estimating that the architectural fees associated with redesigning and getting approval for a complying development would be approximately \$355,000; and

WHEREAS, here, the Board agrees that the building would have to be redesigned at significant cost, and that the prior architectural and engineering costs related to the plans accepted by DOB could not be recouped; and

WHEREAS, additionally, serious loss can be substantiated by a determination that there would be diminution in income if the FAR requirement of the new zoning were imposed; and

WHEREAS, here, the Board agrees that a significant reduction in floor area will result in a serious loss; and

WHEREAS, the Board notes that its conclusion that serious loss would occur includes consideration of the costs related to the need to revise the plans; and

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

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a rescission of the Stop Work Order and a reinstatement of DOB Permit No. 402425470, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, June 23, 2009.

62-08-A

APPLICANT – Eric Palatnik, P.C. for Benny Ulloa, owner
SUBJECT – Application March 27, 2009 – Proposed construction not fronting on a legally mapped street contrary to General City Law Section 36. R1-2 Zoning District.

PREMISES AFFECTED – 398 Nugent Street, Nugent Street, North of Saint George Road, Block 2284, Lot 25, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Kathleen Meaghan, Helen Kravetz and Louise Colavito.

ACTION OF THE BOARD – Laid over to August 11, 2009, at 10 A.M., for continued hearing.

22-09-A

APPLICANT – Gary D. Lenhart for The Breezy Point Cooperative, Incorporated, owner; Maura Roche, lessee.

SUBJECT – Application February 10, 2009 – Reconstruction and enlargement of an existing single family home located partially in the bed of a mapped street and the upgrade of an existing non complying private disposal system contrary to General City Law Section 35 and contrary to Department of Buildings Policy. R4 Zoning.

PREMISES AFFECTED – 663 Highland Place, East side of Highland Place partially in the bed of mapped Beach 202nd Street. Block 16350, Lot 300, Borough of Queens

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary D. Lenhart.

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

Jeff Mulligan, Executive Director

Adjourned: P.M

REGULAR MEETING TUESDAY AFTERNOON, JUNE 23, 2009 1:30 P.M.

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

ZONING CALENDAR

11-07-BZ

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

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

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

COMMUNITY BOARD #4Q

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Adopted by the Board of Standards and Appeals, June 23, 2009.

177-07-BZ

APPLICANT – Manish S. Savani, for Maurice Dayan, owner.

SUBJECT – Application July 6, 2007 – Variance (§72-21) to construct a two story, two family residential building on a vacant corner lot. This application seeks to vary the front yard requirement on one street frontage (§23-45) in an R-5 zoning district.

PREMISES AFFECTED – 886 Glenmore Avenue, corner of Glenmore Avenue and Milford Street, Block 4208, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 7, 2007, acting on Department of Buildings Application No. 302233189, reads in pertinent part:

“Proposed Yard: Front is contrary to ZR 23-45”; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R5 zoning district, the construction of a two-story two-family home on a lot that does not comply with front yard requirements, contrary to ZR § 23-45; and

WHEREAS, a public hearing was held on this application on March 3, 2009, after due notice by publication in *The City Record*, with continued hearings on April 21, 2009, and June 9, 2009, and then to decision on June 23, 2009; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by Vice-Chair Collins and Commissioner Montanez; and

WHEREAS, Community Board 5, Brooklyn, recommends approval of this application; and

WHEREAS, the proposed building will provide a single front yard with a depth of 10’-0” on the Glenmore Avenue frontage (two front yards with depths of 10’-0” are the minimum required); and

WHEREAS, the proposed building will provide a complying side yard along the southern lot line with a width of 30’-6”; and

WHEREAS, the site is a vacant lot located on the northeast corner of Glenmore Avenue and Milton Street, with a width of approximately 20’-0” and a total lot area of approximately 1,800 sq. ft.; and

WHEREAS, the proposal reflects a floor area of 2,241 sq. ft., 1.24 FAR, a wall height of 23’-9”, a total height of 32’-9”, and two parking spaces; all of these parameters comply with zoning district regulations; and

WHEREAS, the applicant states that the site cannot be developed without a variance, due to its narrow width, thus, the instant application was filed; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the site in compliance with underlying district regulations: the corner lot’s narrow width of 20 feet; and

WHEREAS, as to the lot’s width, the applicant notes that without a front yard waiver, the site could not feasibly be developed; and

WHEREAS, the applicant notes that, given the narrow width, the provision of two front yards would result in an uninhabitable home with a width of 10’-0”; and

WHEREAS, the applicant notes that the surrounding area is characterized by lots with widths comparable to that of the subject site, but that the majority of them are occupied by homes built prior to December 15, 1961 or are interior lots with different yard requirements; and

WHEREAS, specifically, the applicant notes that all of the 25 lots in the study area between Atkins Avenue and Fountain Avenue with lot widths of 20 feet, are occupied by

buildings with widths of 20 feet, except for one church; and

WHEREAS, the applicant notes that the site is the only vacant corner lot within a 400-ft. radius of the site; and

WHEREAS, thus, the Board finds that the aforementioned unique physical condition creates a practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the Board has determined that because of the subject lot’s unique physical conditions, there is no reasonable possibility that a complying and viable building could be constructed; and

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

WHEREAS, the applicant notes that the proposed home complies with all R5 zoning district regulations aside from the front yard requirements, and that the proposed bulk and height is compatible with the other residential buildings in the immediate vicinity; and

WHEREAS, the applicant notes that many of the existing homes in the area are attached and semi-detached, like the one proposed, and have pre-existing non-complying yard conditions; and

WHEREAS, additionally, the applicant notes that other nearby corner lots are occupied by buildings which extend to or near the lot line and, which do not provide a complying front yard along the narrow dimension of the lot; and

WHEREAS, additionally, the Board agrees that there is a strong context for lot line buildings in the area, which includes the three buildings to the east of the site which provide either non-complying front and side yards or no front or side yards at all; and

WHEREAS, as to bulk, the Board agrees that the proposed two-story two-family home is compatible with buildings in the area, which include two- and three-story homes and multiple dwellings with heights of two and three stories; and

WHEREAS, based upon its review of the submitted land use maps, the submitted pictures, and site visits, 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, the Board notes that the inclusion of a complying front yard on Glenmore Avenue and a complying side yard at the southern portion of the site limit the degree of the waiver and that the front yard waiver reflects the minimum necessary to afford the applicant 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.

Therefore it is Resolved that the Board of Standards and

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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 R5 zoning district, the construction of a two-story two-family home on a lot that does not comply with front yard requirements, contrary to ZR § 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 “Received December 1, 2008”– (5) sheets; and *on further condition*:

THAT the parameters of the proposed home are as follows: a maximum floor area of 2,241 sq. ft. (1.24 FAR), one side yard of 30’-6” along the southern lot line, one front yard of 10’-0” along the northern lot line, and two parking spaces, as illustrated on the BSA-approved plans;

THAT there shall be no habitable space in the cellar;

THAT the above condition shall appear on the Certificate of Occupancy

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

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

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

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

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

Adopted by the Board of Standards and Appeals, June 23, 2009.

235-08-BZ

CEQR #09-BSA-026K

APPLICANT – Eric Palatnik, P.C., for Agudath Taharath Mishpachan, owners.

SUBJECT – Application September 16, 2008 – Variance (§72-21) to permit the expansion of a Use Group 3 Mikvah. The proposal is contrary to ZR §33-12 (Maximum floor area ratio) and §33-431 (Maximum height of walls and required setbacks). C2-3/R4 district.

PREMISES AFFECTED – 1508 Union Street, located at the southwest corner of Union Street and Albany Avenue, Block 1279, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins,

Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated September 18, 2008, acting on Department of Buildings Application No. 310167903, reads in pertinent part:

“1. Proposed floor area ratio for community facility is contrary to ZR 33-121.

2. Proposed height and setback is contrary to ZR 33-431;” and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21, to permit, on a site within a C2-3 (R4) zoning district, the enlargement of an existing mikvah (Use Group 4) and its extension into portions of an existing building, which does not comply with floor area ratio (FAR), front wall height and setback requirements for community facilities, contrary to ZR §§ 33-121 and 33-431; and

WHEREAS, a public hearing was held on this application on March 24, 2009, after due notice by publication in *The City Record*, with continued hearings on April 28, 2009 and May 19, and then to decision on June 23, 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 9, Brooklyn, recommends approval of this application; and

WHEREAS, this application is being brought on behalf of the Crown Heights Mikvah (hereinafter, the “Mikvah”), which is owned and operated by Agudath Taharath Mishpachah of Eastern Parkway, Inc., a non-profit religious entity; and

WHEREAS, the subject premises is located on the southwest corner of the intersection at Union Street and Albany Avenue, within a C2-3 (R4) zoning district; and

WHEREAS, the site has a rectangular shape with 40 feet of frontage on Union Street, a depth of 100 feet, and a total lot area of 4,000 sq. ft.; and

WHEREAS, the subject site is occupied by a four-story mixed use residential/community facility building, the Mikvah currently occupies approximately 7,965 sq. ft. of floor area and the residential use occupies approximately 1,301 sq. ft. of floor area; and

WHEREAS, the applicant proposes to convert the 1,301 sq. ft. of residential floor area to Mikvah use and to enlarge the Mikvah by an additional 3,365 sq. ft.; and

WHEREAS, the existing, legally non-complying building has the following parameters: a FAR of 2.32 (the maximum permitted FAR is 2.0), a front wall height of 37’-9” (the maximum permitted front wall height is 35’-0”) and no setback (a minimum front wall setback of 20’-0” on a narrow street is required for the portion of the building above 35’-0”); and

WHEREAS, the proposed building provides for a four-

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story mikvah with the following increases to the existing non-compliances: a floor area of approximately 12,631 sq. ft. (3.16 FAR), a front wall height of 43'-3 1/2", and no setback; and

WHEREAS, the applicant initially proposed a building with a front wall height of 47'-3", but in response to concerns raised by the Board it reduced the floor-to-ceiling heights of the proposed building, resulting in a reduction of the overall height from 47'-3" to 43'-3 1/2"; and

WHEREAS, the proposal provides for the following uses: (1) a laundry room, mechanical room, storage area, waiting rooms, and offices in the basement; and (2) 33 preparation rooms, three bridal rooms, and six ritual pools on the first, second, and third floors; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Mikvah: (1) a sufficient number of preparation rooms and ritual pools to accommodate all current and future Mikvah users at one facility; (2) separate bridal rooms for use by women on the night before marriage; and (3) privacy for the women who use the Mikvah; and

WHEREAS, the applicant states that the Mikvah currently services approximately 50 women on a daily basis and that approximately 80 patrons are anticipated by the Spring of 2010, the estimated completion date for the proposed construction; and

WHEREAS, in support of this statement, the applicant submitted a letter from the operator of the Mikvah, stating that their daily logs indicate a 20 percent annual increase in Mikvah users and that many women in Crown Heights who currently must go elsewhere due to the overcrowding of the existing Mikvah will use the proposed building; and

WHEREAS, the applicant submitted a letter from Rabbi Osdoba of Beth Din of Crown Heights, stating that approximately 25 Crown Heights synagogues are affiliated with the subject Mikvah, which is in the heart of the Chabad Lubavitch headquarter serving the Lubavitch worldwide movement; and

WHEREAS, the applicant also submitted a letter from Rabbi Raskin of Congregation B'nai Avraham in Brooklyn Heights, stating that a large number of women from Crown Heights come to their mikvah in Brooklyn Heights on a daily basis due to the overburdening of the subject Mikvah; and

WHEREAS, the applicant represents that the FAR, height and setback waivers are necessary to provide the program space necessary to adequately serve its current and projected users; and

WHEREAS, specifically, (1) the increased height allows for nine-foot floor-to-ceiling heights throughout the building; (2) the absence of a setback allows for uniform, efficient floor plates, and (3) the additional FAR allows for floor area to accommodate all of the necessary components of the Mikvah; and

WHEREAS, the applicant states that the existing Mikvah consists of 16 preparation rooms, no bridal rooms, and three ritual pools; and

WHEREAS, the letter submitted by the operator of the Mikvah states that, on average, each patron spends

approximately one-and-a-half hours in a preparation room, including the time needed for the cleaning staff to replenish supplies and sanitize the room; and

WHEREAS, the letter from the operator of the Mikvah further states that immersion in the ritual bath must happen after sundown and the hours of operation of the Mikvah vary based on the time of year, such that the Mikvah operates from approximately 8:00 p.m. to 11:00 p.m. during the summer months and from approximately 5:30 p.m. to 10:00 p.m. during the winter months; and

WHEREAS, the applicant submitted an operational hours chart indicating that the existing Mikvah provides 72 available hours for preparation room use in the winter months and 48 available hours for preparation room use in the summer months, and that 75 hours are needed per evening for the approximately 50 current Mikvah patrons; and

WHEREAS, the operational hours chart further indicates that the proposed Mikvah will provide 148.5 available hours for preparation room use in the winter months and 99 available hours for preparation room use in the summer months, and that 120 hours will be needed per evening for the 80 anticipated Mikvah patrons; and

WHEREAS, thus, the applicant represents that the proposed enlargement is necessary to provide an adequate number of preparation rooms for the current and anticipated number of Mikvah patrons; and

WHEREAS, the applicant represents that the requested waivers are also necessary to provide three bridal rooms for the exclusive use of women on the night before their marriage; and

WHEREAS, the applicant states that the bridal rooms are necessary because the mikvah ritual is a sacred right and the proper introduction of the bride to the mikvah ritual is critical to the perpetuation of the Jewish faith; and

WHEREAS, the applicant represents that the Mikvah currently services three to four brides per evening and anticipates that it will serve between four and six brides per evening after the proposed enlargement; and

WHEREAS, the applicant further represents that, on average, the bridal rooms are occupied for approximately three hours at a time, twice as long as the average mikvah visit, due to the sacred nature of the occasion and the fact that it is the bride's introduction to the mikvah ritual; and

WHEREAS, the applicant states that the current Mikvah provides no bridal rooms, forcing brides to use the same preparation rooms as other patrons and further overburdening the Mikvah; and

WHEREAS, the operational hours chart submitted by the applicant indicates that approximately 15 hours will be needed for the four to six brides anticipated at the proposed Mikvah each night; and

WHEREAS, the applicant represents that therefore three bridal rooms are necessary to accommodate the number of brides anticipated per evening after the proposed enlargement; and

WHEREAS, the applicant further represents that the requested waivers are necessary to ensure the privacy of the

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women who use the Mikvah; and

WHEREAS, the applicant states that modesty and privacy are fundamental aspects of the deeply personal mikvah ritual; and

WHEREAS, the applicant further states that women who use the Mikvah currently must remain in a waiting room with other women for more than an hour before they have access to a preparation room; and

WHEREAS, the applicant represents that the proposed Mikvah will provide a sufficient number of preparation rooms, bridal rooms, and ritual baths to preserve the privacy of the women by keeping their waiting time to a minimum; and

WHEREAS, the applicant states that the proposed circulation plan for the Mikvah will help maintain the privacy of the women, as they will enter the Mikvah on Albany Avenue and move in one direction before they ultimately exit onto Union Street, thus minimizing the need to “double back” and pass other women walking through the Mikvah or to exit through the same door other women are entering; and

WHEREAS, in support of this statement, the applicant submitted drawings reflecting the circulation pattern at the proposed Mikvah; and

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

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

WHEREAS, the applicant provided a submission briefing the prevailing New York State case law on religious deference; and

WHEREAS, the Board notes that under established precedents of the courts, “[r]eligious use is conduct with a religious purpose, the determination of which focuses on the proposed use itself, not the religious nature of the organization” (McGann v. Incorporated Village of Old Westbury, 293 A.D.2d 581 (2d Dep’t 2002)), and includes uses ancillary to the function of the house of worship (See Community Synagogue v. Bates, 1 N.Y.2d 445 (1956)); and

WHEREAS, the Board recognizes the role of a mikvah in the religious Jewish community and its significance to Jewish life; accordingly, the Board finds that the Mikvah qualifies as a religious use and is therefore entitled to significant deference under the law of the State of New York as to zoning; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Mikvah create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

WHEREAS, the applicant notes that the proposed use is permitted in the subject zoning district; and

WHEREAS, the applicant represents that the scale and bulk of the Mikvah is consistent with the scale and bulk of many of the corner lots located on Albany Avenue between Carroll Street and Eastern Parkway; and

WHEREAS, specifically, the applicant submitted a radius diagram indicating that there is a seven-story residential building on the corner of Albany Avenue and Eastern Parkway, and provided photographs of three four-story buildings located on the corner of President Street and Albany Street and the corner of Carroll Street and Albany Street, all of which have approximate heights of more than 40 feet; and

WHEREAS, at hearing, the Board requested that the applicant amend the façade of the building to provide brickwork that is in character with the surrounding area, and to replace the existing turret that will have to be removed as a result of the enlargement; and

WHEREAS, in response, the applicant provided revised plans indicating that the brickwork and turret will be provided as per the Board’s request; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Mikvah could occur on the existing lot; and

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

WHEREAS, as noted above, during the hearing process the applicant revised the proposal to reduce the height of the building by approximately four feet; and

WHEREAS, the applicant also submitted an analysis by the architect indicating that every use of the proposed structure has been allocated the minimal amount of space necessary to accommodate its need; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Mikvah the relief needed both to meet its programmatic needs and to construct a building that is compatible with the character of the neighborhood; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under

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ZR § 72-21; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No.09BSA026K, dated December 23, 2008; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R4 (C2-3) zoning district, the proposed enlargement of an existing mikvah (Use Group 4) and its extension into portions of an existing building, which does not comply with floor area ratio, front wall height and setback requirements for community facilities, contrary to ZR §§ 33-121 and 33-431, *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 May 12, 2009" – fourteen (14) sheets; and *on further condition*:

THAT the building parameters shall be: 12,631 sq. ft. of floor area; an FAR of 3.16; a front wall height of 43'-3 1/2"; and no setback;

THAT the use shall be limited to a mikvah (Use Group 4);

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, June 23, 2009.

265-08-BZ

CEQR #09-BSA-040K

APPLICANT – Mark A. Levine for 70 Wyckoff Avenue LLC, owner.

SUBJECT – Application October 28, 2008 – Variance pursuant to §72-21 to allow for the legalization of residential units located in a manufacturing building, contrary to §42-00; M1-1 District.

PREMISES AFFECTED – 70 Wyckoff Avenue, South east corner of Wyckoff Avenue and Suydam Street, Block 3221, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD # 4BK

APPEARANCES –

For Applicant: Richard Bass.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, decision of the Brooklyn Borough Commissioner, dated February October 2, 2008, acting on Department of Buildings Application No. 310199969, reads:

“Residential use is not permitted in a manufacturing M1-1 district as per Section 42-00 of Zoning Resolution”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, the legalization of a residential conversion (UG 2) of an existing four-story manufacturing building; and

WHEREAS, a public hearing was held on this application on March 17, 2009, after due notice by publication in the *City Record*, with continued hearings on April 21, 2009, and May 19, 2009, and then to decision on June 23, 2009; and

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

WHEREAS, Community Board 4, Brooklyn, recommends approval of this application; and

WHEREAS, the site is located on the southeast corner of Wyckoff Avenue and Suydam Street, within an M1-1 zoning district; and

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WHEREAS, the site has 100'-1" of frontage on Wyckoff Avenue, 215'-3" of frontage on Suydam Street, and a lot area of 21,302 sq. ft.; and

WHEREAS, the site is currently occupied by a four-story manufacturing building with a penthouse, with a total floor area of 66,578 sq. ft. and an FAR of 3.12, with 51 dwelling units; the building also has a penthouse; and

WHEREAS, the applicant states that the four-story building was built prior to 1924 and the penthouse was completed in 2003, pursuant to DOB Permit No. 301130504-01, which was approved on February 13, 2001; and

WHEREAS, as noted, the applicant proposes to legalize the existing dwelling units, which were converted from manufacturing use in 2003; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in complying with applicable zoning district regulations: (1) the building is obsolete for manufacturing use; and (2) the building's yard configuration and location does not permit access for the movement of goods and large trucks as is required of modern manufacturing uses; and

WHEREAS, the applicant represents that the building is obsolete for modern manufacturing due to (1) constrained floor plates, (2) low ceiling height, (3) lack of an elevator and (4) lack of a loading dock; and

WHEREAS, the applicant states that the building was built for a single user, which was a specialty cut and sew manufacturer, and the building's design served the specific needs of such a business; and

WHEREAS, the applicant represents that the building could not be modified to accommodate multiple conforming tenants, particularly given the other noted constraints, including the presence of only one elevator; and

WHEREAS, as to the building's constrained floor plates, the applicant asserts that the presence of two rows of columns 22 feet apart, with columns spaced at 12-foot intervals results in many narrow bays within each floor, which results in inefficient floor plates and inhibits the movement and storage of goods; and

WHEREAS, the applicant represents that this condition constrains the building for use as a warehouse or for an active conforming use; and

WHEREAS, as to ceiling height, the applicant notes that the floor-to-ceiling height is approximately 12'-0"; and

WHEREAS, the applicant represents that modern commercial use requires at least 16-foot floor-to-ceiling heights and modern industrial use requires at least 20- to 30-foot floor-to-ceiling heights in order to accommodate stacking and efficient storage and maneuvering of bulk goods; and

WHEREAS, as to the communication between floors, the applicant states that the building lacks a passenger elevator and contains only one freight elevator for multiple tenants; further, the freight elevator is located at the eastern end of the building, opening into a small, confined loading area; and, finally, the freight elevator is deemed to be too small and positioned so that a truck cannot back up to it; and

WHEREAS, the applicant represents that the elevator and constrained loading area cannot accommodate the movement of freight or goods for a conforming use; and

WHEREAS, as to building access, the applicant states that there is not any direct access to the building or loading area from the street; specifically, the loading area cannot be accessed directly from the street and deliveries must maneuver through a narrow yard, approximately 100 feet from the sidewalk; and

WHEREAS, additionally, the applicant states that the building does not have a basement and, therefore, certain infrastructure is located in the narrow rear and side yards, further reducing available space for building access; and

WHEREAS, narrow rear and side yards also constrain access to the site and inhibit loading and un-loading; and

WHEREAS, as to the uniqueness of the site conditions, the applicant identified 19 other industrial buildings within close proximity to the site and found that all have direct access from the street; 12 have loading docks; and none, with such information available, had as narrow column-spacing as the subject building; and

WHEREAS, accordingly, the applicant concludes that none of the other industrial buildings analyzed are similarly constrained with regard to access and floor plate design; and

WHEREAS, the Board finds that the combination of the column-spacing, low ceiling height, lack of multiple elevators and loading berths, and lack of direct access for bulk goods, trucks, and machinery, from the street to the building creates unnecessary hardship and practical difficulty in using the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant provided a feasibility study analyzing three alternatives: (1) the building used in conformance with M1-1 zoning district regulations; (2) the four-story building converted to a residential use, without a penthouse; and (3) the proposed four-story building converted to a residential use, with a penthouse; and

WHEREAS, the applicant's feasibility study reflects that neither the building occupied by a conforming use, nor the four-story building converted to residential use without the penthouse, provide a reasonable rate of return; and

WHEREAS, based upon its review of the applicant's financial analysis, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that use in strict conformance with applicable zoning requirements will provide a reasonable return; and

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

WHEREAS, although zoned M1-1, the site is surrounded by a large R6 zoning district, the applicant represents that the actual land uses in the area are compatible with residential use; and

WHEREAS, the applicant represents that the block where the site is located is characterized by a majority of residential

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uses and certain commercial uses to serve the residential community, such as a supermarket; and

WHEREAS, the applicant represents that there are not any manufacturing uses on the subject block; and

WHEREAS, the applicant notes that half of the subject block is zoned R6 as is the area across Wyckoff Avenue and a portion of the block across Suydam Street; and

WHEREAS, as to bulk, the applicant states that the existing four-story building with penthouse has an FAR of 3.12, which is comparable to the buildings within the adjacent R6 zoning district; and

WHEREAS, based on review of land use maps and site examinations, the Board agrees that there is a significant amount of nearby residential use; and

WHEREAS, based upon the above, the Board finds that the proposed legalization of the residential conversion of the subject building will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor 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 rather a function of the unique physical characteristics of the site; and

WHEREAS, accordingly, the Board finds that the current proposal, which does not provide for any new construction, is the minimum necessary to afford the owner relief; and

WHEREAS, additionally, the Board notes that the applicant analyzed the four-story building without a penthouse alternative since that was not part of the original obsolete structure and the additional space provided by the penthouse is required to offset the costs of the significant alterations to the building necessary for a viable residential use; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to Part 617 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. 09-BSA-040K, dated September 19, 2008; and

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

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

WHEREAS, the Board has determined that the proposed

action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an M1-1 zoning district, the legalization of a residential conversion (UG 2) of an existing four-story manufacturing building, which is contrary to ZR § 42-00, *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 December 11, 2008"-(11 sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a total floor area of 66,578 and an FAR of 3.12, as illustrated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, June 23, 2009.

301-08-BZ

APPLICANT – Fridman Saks LLP, for 2717 Quentin Realty LLC, owner.

SUBJECT – Application December 10, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary floor area and lot coverage (§23-141), side yard (§23-461), perimeter wall height (§23-631(b)) and less than the minimum rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 2717 Quentin Road, between East 27th and East 28th Streets, Block 6790, Lot 32, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Borris Saks.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 19, 2008, acting on Department of Buildings Application No. 310223157, reads in pertinent part:

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

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to Section 23-141 of the Zoning Resolution.
2. Creates non-compliance with respect to the lot coverage and is contrary to Section 23-141 of the Zoning Resolution.
3. Creates non-compliance with respect to the side yard by not meeting the minimum requirements of Section 23-461 of the Zoning Resolution.
4. Creates non-compliance with respect to perimeter wall height of building and is contrary to Section 23-631(b) of the Zoning Resolution.
5. Creates non-compliance with respect to rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution;” and

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

WHEREAS, a public hearing was held on this application on April 21, 2009, after due notice by publication in *The City Record*, with a continued hearing on May 19, 2009, and then to decision on June 23, 2009; and

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

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

WHEREAS, the subject site is located on the north side of Quentin Road, between East 27th Street and East 28th Street, in an R3-2 zoning district; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft., and is occupied by a single-family home with a floor area of 2,222 sq. ft. (0.44 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 2,222 sq. ft. (0.44 FAR) to approximately 5,029 sq. ft. (1.01 FAR); the maximum permitted floor area

is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide a lot coverage of approximately 42 percent (35 percent is the maximum permitted); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard with a width of 3’-11” along the eastern lot line (a minimum width of 5’-0” is required) and will provide a complying side yard of 8’-0” along the western lot line; and

WHEREAS, the proposed enlargement provides a perimeter wall height of 21’-7” (a maximum perimeter wall height of 21’-0” is permitted)

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, in support of making the finding, the applicant submitted a survey demonstrating that the perimeter wall height of the adjacent home to the west is 21’-8”; therefore the perimeter wall height of the proposed home falls within the scope of the special permit; and

WHEREAS, the applicant initially proposed a perimeter wall height of 22’-6”; and

WHEREAS, the Board noted that the proposed perimeter wall height did not comply with the provisions of ZR § 23-631 and directed the applicant to revise the plans so that the perimeter wall height would comply with ZR § 23-631; and

WHEREAS, accordingly, the applicant reduced the perimeter wall height to 21’-7”; and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20’-3” (a minimum rear yard of 30’-0” is required); and

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

WHEREAS, in response, the applicant submitted revised plans indicating the portions of the existing home that are 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

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and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, lot coverage, side yards, perimeter wall height, and rear yards, contrary to ZR §§ 23-141, 23-461, 23-631, 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 May 5, 2009”-(9) sheets and “Received June 1, 2009”-(5) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of 5,029 sq. ft. (1.01 FAR); a lot coverage of 42 percent; a side yard with a minimum width of 3’-11” along the eastern lot line; a perimeter wall height of 21’-7”; and a rear yard with a minimum depth of 20’-3”, 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, June 23, 2009.

10-09-BZ

APPLICANT – Francis R. Angelino, Esq., for Religious Org. Tenseishinbikai USA, Inc., owner.

SUBJECT – Application January 23, 2009 – Variance pursuant to § 72-21 to allow a community facility use (house of worship), contrary to front yard regulations, §24-34. R3-2 District.

PREMISES AFFECTED – 2307 Farragut Road/583 East 23rd Street, north east corner of Farragut Road and East 23rd Street, Block 5223, Lot 2, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Francis R. Angelino, Esq., Omar Walrond, Michiyo Ishikawa, Joseph Tarella, Takashi Omoto and Seiji Ochi.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 9, 2009, acting on Department of Buildings Application No. 310202777 reads, in pertinent part:

“Proposed front yard on Farragut Road for community facility in R3-2 district is contrary to ZR 24-34;” and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an R3-2 zoning district, a two-story building to be occupied by a church (Use Group 4) and rectory, which does not comply with front yard requirements for community facilities, contrary to ZR § 24-34; and

WHEREAS, a public hearing was held on this application on May 12, 2009, after due notice by publication in *The City Record*, with a continued hearing on June 9, 2009, and then to decision on June 23, 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 14, Brooklyn, recommends disapproval of this application; and

WHEREAS, members of the South Midwood Residents Association, along with other members of the community, provided testimony in opposition to the proposal; and

WHEREAS, this application is being brought on behalf of Religious Organization Tenseishinbikai, U.S.A., Inc., a non-profit religious entity (the “Church”); and

WHEREAS, the subject site is located on the northeast corner of the intersection at Farragut Road and East 23rd Street, with 100’-0” of frontage along Farragut Road and 50’-0” of frontage along East 23rd Street, and a lot area of 5,000 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the proposed building provides for a two-story church with no front yard along a portion of the southern lot line; and

WHEREAS, the proposal provides for the following uses: (1) mechanical rooms and storage rooms at the cellar level; (2) a lobby and rectory on the first floor; and (3) a sanctuary and ceremonial meeting room on the second floor; and

WHEREAS, the applicant states that the primary programmatic need of the Church which necessitates the requested variance is the need to accommodate the anticipated

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congregation of approximately 82 people; and

WHEREAS, the applicant represents that a complying building would not be able to accommodate more than 43 congregants; and

WHEREAS, the applicant states that the requested waiver enables the Church to provide adequate space for worship services in the second floor sanctuary; and

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

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

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

WHEREAS, specifically, the subject site is a corner lot with a width of 50 feet and a depth of 100 feet; and

WHEREAS, the applicant states that two fifteen-foot front yards and two ten-foot side yards would be required for a complying community facility building in the subject zoning district; and

WHEREAS, the applicant represents that due to the front and side yard requirements, a complying community facility building would have a width of 25 feet, providing for a sanctuary space of less than 20 feet in width, which would be too narrow to accommodate the anticipated congregation; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Church create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

WHEREAS, the applicant states that that the proposed use is permitted in the subject zoning district; and

WHEREAS, the applicant further states that the development of the proposed Church is entirely as-of-right, with the exception of the non-compliant front yard, and the waiver for the front yard is necessary to permit a building that can accommodate the size of the congregation; and

WHEREAS, the applicant provided a 400-foot radius diagram indicating that the bulk and height of the Church are consistent with the bulk and height of the two-and-a-half-story homes that characterize the area; and

WHEREAS, the applicant also submitted an analysis of the front yard context of corner lots located on Farragut Road between East 21st Street and East 26th Street, establishing that all 19 of the lots studied are occupied by buildings that encroach into some portion of the required front yard; and

WHEREAS, at hearing, residents of the community argued that the proposed building was out of context with the Victorian character of the neighborhood and does not provide the requisite eight-foot planting strip between the building and the sidewalk along Farragut Road; and

WHEREAS, in response, the applicant states that the area is not within a designated historic district, and thus does not require approval from the Landmarks Preservation Commission; and

WHEREAS, the applicant also submitted a survey indicating that the eight-foot planting strip will be provided as required along Farragut Road; and

WHEREAS, at hearing, the Board requested that the applicant also plant trees along East 23rd Street; and

WHEREAS, in response, the applicant submitted revised drawings indicating that two trees will be planted on the applicant's property along East 23rd Street; and

WHEREAS, accordingly, 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 applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Church could occur on the existing lot; and

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

WHEREAS, the Board notes that the front yard waiver is required for only 62'-10" of the 100'-0" frontage on Farragut Road; a complying front yard will be provided along the other 37'-2" of frontage; and

WHEREAS, the Board finds the requested waivers to be the minimum necessary to afford the Church the relief needed both to meet its programmatic needs and to construct a building that is compatible with the character of the neighborhood; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of

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Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R3-2 zoning district, a two-story building to be occupied by a church (Use Group 4) and rectory, which does not comply with front yard requirements for community facilities, contrary to ZR § 24-34, *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 March 25, 2009” – (6) sheets and “Received June 11, 2009” – (1) sheet and *on further condition*:

THAT the building parameters shall be: a floor area of 4,996 sq. ft., an FAR of 1.0; a 15’-0” front yard along the East 23rd Street frontage; a 10’-0” side yard along the northern lot line; and a 10’-0” side yard along the eastern lot line;

THAT all landscaping shall be provided and maintained in accordance with the approved plans;

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

THAT the use shall be limited to a house of worship (Use Group 4) and rectory;

THAT no commercial catering shall take place onsite;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, June 23, 2009.

25-09-BZ

CEQR #09-BSA-072M

APPLICANT – Law Offices of Howard Goldman LLC., for AJJ Canal LLC, owner and Champion Fitness LLC, lessee. SUBJECT – Application February 13, 2009 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment on the third floor of a three-story commercial building. The proposal is contrary to ZR §42-10. M1-5B district.

PREMISES AFFECTED – 277 Canal Street, Northwest corner of Canal and Broadway. Block 209, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Chris Wright.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Superintendent, dated January 23, 2009, acting on Department of Buildings Application No. 110419379, reads in pertinent part:

“ZR 42-31. BSA approval is required for physical culture establishment;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5B zoning district, the legalization of a physical culture establishment (PCE) on the third floor of a three-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on May 19, 2009 after due notice by publication in *The City Record*, and then to decision on June 23, 2009; and

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

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

WHEREAS, the subject site is located on the northeast corner of the intersection at Canal Street and Broadway, in an M1-5B zoning district; and

WHEREAS, the site is occupied by a three-story commercial building; and

WHEREAS, the PCE will occupy 9,960 sq. ft. of floor area, comprising the entire third floor of the existing building; and

WHEREAS, the PCE will be operated as Champion Fitness; and

WHEREAS, the proposed hours of operation are: Monday through Friday, from 5:30 a.m. to 10:00 p.m.; Saturday, from 7:00 a.m. to 4:00 p.m.; and Sunday, from 9:00 a.m. to 4:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE will include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, aerobics and martial arts, and facilities for the practice of massage; and

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

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

MINUTES

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

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

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

WHEREAS, the Board notes that the PCE has been in operation since November 23, 2008, without a special permit; and

WHEREAS, accordingly, the Board has determined that the term of the grant shall be reduced for the period of time between November 23, 2008 and the date of this grant; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 09BSA072M, dated May 6, 2009; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5B zoning district, the legalization of a physical culture establishment on the third floor of an existing three-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 6, 2009"- six (6) sheets and *on further condition*:

THAT the term of this grant shall expire on November 23, 2018;

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, June 23, 2009.

63-08-BZ

APPLICANT – Eric Palatnik for Royal Palace, lessee. Manton Holding , owner

SUBJECT – Application March 27, 2008 – Special Permit (§73-244) to legalize an eating and drinking establishment with entertainment and a capacity of more than 200 persons with dancing within a C4-2 zoning district.

PREMISES AFFECTED – 116-33 Queens Boulevard, Between 77th and 78th Avenues, Block 2268, Lot 23, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Eric Palatnik, Nancy Neumen and Dasha.
For Opposition: Eric Goidel, Charlotte Picot, Carole Keit, James Messemer , Amelia McClancy, Elaine F. Wallace, Michael Hunter and George McGrett.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to August 11, 2009, at 1:30 P.M., for decision, hearing closed.

241-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Devonshire Enterprises, Inc., owner.

SUBJECT – Application September 25, 2008 – Variance (§72-21) to permit a one-story commercial building (Use

MINUTES

Group 6) on a vacant lot. The proposal is contrary to ZR Section 32-10. R3-1 district.

PREMISES AFFECTED – 546 Midland Avenue, a/k/a 287 Freeborn Street, southwest corner of the intersection of Freeborn Street and Midland Avenue, Block 3803, Lot 29, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam Rothkrug.

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

297-08-BZ

APPLICANT – Lewis E. Garfinkel, for Itzhak Bardror, 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 R2 zoning district.

PREMISES AFFECTED – 3496 Bedford Avenue, between Avenue M and Avenue N, Block 7660, Lot 78, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik and Lewis E. Garfindel.

For Opposition: Stuart A. Klein and Marcus Fuchs.

ACTION OF THE BOARD – Laid over to August 25, 2009, at 1:30 P.M., for continued hearing.

30-09-BZ

APPLICANT – Sheldon Lobel, P.C., for 136-33 37th Avenue Realty, LLC, owner.

SUBJECT – Application February 23, 2009 – Special Permit pursuant to §73-44 to reduce the amount of required parking spaces for commercial and medical offices uses from 153 to 97 spaces. C4-3 zoning district.

PREMISES AFFECTED – 136-33 37th Avenue, north side of 37th Avenue, between Main Street and Union Street, Block 4977, Lot 95, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

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

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

256-07-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP for

Hayden Rester, owner.

SUBJECT – Application November 5, 2007 – Variance (72-21) to permit a Use Group 4 community youth center within a portion of a proposed mixed-use building The proposal is contrary to section 24-35 (side yard). R5 district.

PREMISES AFFECTED – 1978 Atlantic Avenue, Southern side of Atlantic Avenue, 180 feet west of the intersection of Atlantic and Ralph. Block 1339, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD # 8BK

APPEARANCES –

For Applicant: Adam Rothkrug and Hayden Hester.

For Opposition: ??????

ACTION OF THE BOARD – Laid over to August 11, 2009, at 1:30 P.M., for continued hearing.

254-08-BZ

APPLICANT – Eric Palatnik, P.C., for Yeshiva Ohr Yitzchok, owner.

SUBJECT – Application October 15, 2008 – Variance to legalize the use and enlargement of a Yeshiva, contrary to use regulations.

PREMISES AFFECTED – 1214 East 15th Street, Western side of East 15th Street between Avenue L and Locust Avenue. Block 6734, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD # 14BK

APPEARANCES –

For Applicant: Eric Palatnik, Hiram Rothkrug, Steven Itchowitz and Rabbi Groner.

ACTION OF THE BOARD – Laid over to August 25, 2009, at 1:30 P.M., for continued hearing.

9-09-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Gerry Kaplan/Marlene Realty Co., for Force Fitness LLC, lessee.

SUBJECT – Application January 22, 2009 – Special Permit (§73-36) to allow a physical culture establishment in an existing one-story building. The proposal is contrary to ZR Section 42-10. M1-1 district.

PREMISES AFFECTED – 63-03 Fresh Pond Road, east side of Fresh Pond Road, 269.8' south of Metropolitan Avenue and Fresh Pond Road, Block 3608, Lot 14, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Sandy Anagnostov.

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

18-09-BZ

APPLICANT – Stuart A. Klein, for Ascot Properties, Ltd., owner; Gold's Gym, lessee.

SUBJECT – Application February 6, 2008 – Special Permit

MINUTES

(§73-36) to allow the legalization of an existing physical culture establishment on the first, second and third floors in an existing twelve-story building. The proposal is contrary to ZR Section 32-10. C6-5, C6-7 and Special Midtown Districts.

PREMISES AFFECTED – 250 West 54th Street, between Broadway and 8th Avenue, Block 1025, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Jay Goldstein.

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

23-09-BZ

APPLICANT – Eric Palatnik, P.C., for Alla Simirnov, owner.

SUBJECT – Application February 12, 2009 – Special Permit (§73-622) for the enlargement of an existing two family home to be converted to a single family home. This application seeks to vary open space, lot coverage and floor area (23-141(b)) and rear yard (23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 114 Amherst Street, west side of Amherst Street between Hampton Avenue and Oriental Boulevard, Block 8732, Lot 71, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

Jeff Mulligan, Executive Director

Adjourned: P.M.