
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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

Volume 94, Nos. 35-37

September 25, 2009

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

Commissioners

Jeffrey Mulligan, *Executive Director*

Roy Starrin, *Deputy Director*

Becca Kelly, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006

HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006

BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500

FAX - (212) 788-8769

CONTENTS

DOCKET576-577

CALENDAR of October 6, 2009

Morning578

Afternoon579

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, September 15, 2009**

Morning Calendar580

Affecting Calendar Numbers:

441-31-BZ	7702 Flatlands Avenue, Brooklyn
719-56-BZ	2525 Victory Boulevard, Staten Island
271-81-BZ	110/112 West 56 th Street, Manhattan
8-96-BZ	175-22 Horace Harding Expressway, Queens
55-97-BZ	76-36 164 th Street, Queens
261-98-BZ	193 20 th Street, Brooklyn
327-04-BZ	66-35 108 th Street, Queens
239-07-BZ	57-38 Waldron Street, Queens
590-76-BZ	243 East 59 th Street, Manhattan
1259-79-BZ	29 West 26 th Street, Manhattan
826-86-BZ thru 828-86-BZ	269-10, 270-10, 271-10 Grand Central Parkway, Queens
297-99-BZ	45-05 Bell Boulevard, Queens
197-05-BZ	813/815 Broadway, Manhattan
317-08-A	124 Montgomery Avenue, Staten Island
296-08-A	45-02 111 th Street, Queens
38-09-A	72-45 43 rd Avenue, Queens
170-09-A	24-03 Queens Plaza North, Queens
181-09-A	410 East 64 th Street, Manhattan

Afternoon Calendar590

Affecting Calendar Numbers:

168-09-BZ	1435 & 1437 East 26 th Street, Brooklyn
195-09-BZ	321 Ashland Place, Brooklyn
256-07-BZ	1978 Atlantic Avenue, Brooklyn
63-08-BZ	116-33 Queens Boulevard, Queens
186-08-BZ	3065 Atlantic Avenue, Brooklyn
187-08-BZ	1247 38 th Street, Brooklyn
197-08-BZ	341/349 Troy Avenue, a/k/a 1515 Carroll Street, Brooklyn
210-08-BZ	130-15 89 th Road, Queens
7-09-BZ	1082 East 26 th Street, Brooklyn
46-09-BZ	122 Oxford Street, Brooklyn
161-09-BZ	580 Carroll Street, Brooklyn
176-09-BZ	220-236 West 28 th Street, Manhattan
183-09-BZ	1400 5 th Avenue, Manhattan
198-09-BZ	143 West 19 th Street, Manhattan
226-09-BZ	24 East 13 th Street, Manhattan

DOCKETS

New Case Filed Up to September 15, 2009

247-09-BZ

123 East 55th Street, North side of East 55th Street between Park Avenue and Lexington Avenue, 127.5 feet., Block 1310, Lot(s) 10, Borough of **Manhattan, Community Board: 5**. Variance to allow an expansion of an existing non-complying building, contrary to regulations. C5-2 & C5-2.5 district.

248-09-BZ

3031 Bailey Avenue, Northwest corner of Bailey Avenue and Albany Court., Block 3266, Lot(s) 85, Borough of **Bronx, Community Board: 8**. Special Permit (11-411) to reinstate prior variance. R6 district.

249-09-A

363 Lafayette Street, East side of Lafayette Street between Bond and Great Jones Streets., Block 530, Lot(s) 17, Borough of **Manhattan, Community Board: 2**. Appeal challenging Department of Building's determination under the Title 28 Section 28-105.9 of the Administrative Code that the permit for the subject premises expired and became invalid because the permitted work or use was not commenced within 12 mo M1-5B district.

250-09-BZ

532 Madison Avenue, Madison Avenue; East 54th Street; Fifth Avenue; East 55th Street., Block 1290, Lot(s) 15, Borough of **Manhattan, Community Board: 5**. Special Permit (73-36) to legalize the operation of a physical culture establishment. C5-3 (MiD) district.

251-09-BZ

130-34 Hawtree Creek Road, West side of Hawtree Creek Road, 249.93 feet north of 133rd Avenue., Block 11727, Lot(s) 58, Borough of **Queens, Community Board: 10**. Variance to allow a house of worship, contrary to use regulations. R3-2 district.

252-09-A

2788 Grand Concourse and Boulevard, Between Miriam Street and East 197th Street., Block 3304, Lot(s) 103/171, Borough of **Bronx, Community Board: 15**. Appeal from the NYC Fire Department. R8 district.

253-09-BZ

53-00 65th Place, Southwest corner of 53rd Avenue and 65th Place., Block 2374, Lot(s) 160, Borough of **Queens, Community Board: 5**. Special Permit (73-30) to allow a non-accessory radio tower on the rooftop of an existing building. R-4 district.

254-09-BZ

101-03 Astoria Boulevard, Northerly side of Astoria Boulevard & northeasterly side of Kearney Street., Block 1659, Lot(s) 51,53,56, Borough of **Queens, Community Board: 3**. Variance to allow legalization of three existing family homes R3-2 district.

255-09-BZ

101-07 Astoria Boulevard, Northerly side of Astoria Boulevard & northeasterly side of Kearney Street., Block 1659, Lot(s) 51,53,56, Borough of **Queens, Community Board: 3**. Variance to allow legalization of three existing family homes R3-2 district.

256-09-BZ

101-05 Astoria Boulevard, Northerly side of Astoria Boulevard & northeasterly side of Kearney Street., Block 1659, Lot(s) 51,53,56, Borough of **Queens, Community Board: 3**. Variance to allow legalization of three existing family homes R3-2 district.

257-09-BZY

88-36 144th Street, 86.63 feet from corner of 88th Road and 144th Street., Block 9683, Lot(s) 15, Borough of **Queens, Community Board: 12**. Extension of Time (11-332) to complete construction under the prior zoning district. R-5 district.

258-09-BZY

88-38 144th Street, 86.63 feet from corner of 88th Road and 144th Street, Block 9683, Lot(s) 16, Borough of **Queens, Community Board: 12**. Extension of Time (11-332) to complete construction under prior zoning district. R-5 district.

DOCKET

259-09-BZY

139-48 88th Road, "0" feet from corner of 88th Road and 144th Street., Block 9683, Lot(s) 13, Borough of **Queens, Community Board: 12.** Extension of Time (11-332) to complete construction under the prior zoning district. R-5 district.

260-09-BZY

88-30 144th Street, "0" feet from corner of 88th Road and 144th Street., Block 9683, Lot(s) 14, Borough of **Queens, Community Board: 12.** Extension of Time (11-332) to complete construction under the prior zoning district. R-5 district.

261-09-BZY

88-34 144th Street, "0" feet from corner of 88th Road and 144th Street., Block 9683, Lot(s) 114, Borough of **Queens, Community Board: 12.** Extension of Time (11-332) to complete construction under the prior zoning district. R-5 district.

262-09-A

711 Bayside, North side of mapped 204th Street 28.63 south of Bayside Drive., Block 16350, Lot(s) 300, Borough of **Queens, Community Board: 14.** Reconstruction and enlargement of an existing single family home not fronting on a mapped street contrary to General City Law Section 36 and also the home and private disposal system located within the bed of a mapped street B204th contrary to Genral Cit R4 district.

263-09-A

28 Tioga Walk, West side of Tioga Walk 18.32' south of paved Oceanside Avenue., Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14.** Reconstruction and enlargement of an existing single family home not fronting on a mapped street contrary to General City Law Section 36 and also located within the bed of a mapped street B216th contrary to General City Law Section 35 . R4 Zoning Dist R4 district.

264-09-BZ

927 Flatbush Avenue, East side of Flatbush Avenue 136.42 feet north of intersection of Flatbush Avenue & Synder Avenue., Block 5103, Lot(s) 8, Borough of **Brooklyn, Community Board: 14.** Special Permit (73-36) to legalize the operation of a physical culture establishment. C4-4A district.

265-09-A

165 Ocean Avenue, East side of Ocean Avenue 130' south of Oceanside Avenue., Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14.** Reconstruction and enlargement of an existing single family home and the upgrade of a private disposal system located within the bed of a mapped street contrary to General City Law Section 35 and Department of Buildings Policy .R4 zoning distirct . R4 district.

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

CALENDAR

OCTOBER 6, 2009, 10:00 A.M.

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

SPECIAL ORDER CALENDAR

684-64-BZ

APPLICANT – George E. Berger, for 360 East 72nd Street Owners Corporation owner.

SUBJECT – Application July 30, 2009 – Extension of Term permitting the use of no more than 45 unused and surplus tenant parking spaces, within an accessory garage, for transient parking granted by the Board pursuant to §60 (3) of the Multiple Dwelling Law (MDL) which is set to expire on October 23, 2009. C1-5 in a R10A & R8B zoning district. PREMISES AFFECTED – 360 East 72nd Street, East side of 1st Avenue between East 71st Street and East 72nd Street., Block 1446, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

16-95-BZ

APPLICANT – Akerman Senterfitt, LLP, for STA Parking Group, owner.

SUBJECT – Application July 24, 2009 – Extension of Term and Waiver of the Rules of a previously granted Variance (72-21) for a UG8 parking garage with accessory auto repairs which expired on March 23, 2009. R-8B zoning district.

PREMISES AFFECTED – 434 East 77th Street, between 76th and 77th Street, Block 1471, Lot 31, Borough of Manhattan.

COMMUNITY BOARD #8M

172-96-BZ

APPLICANT – Law Office of Mitchell Ross, Esquire, for Don Mitchell owner.

SUBJECT – Application April 17, 2009 – Extension of Term for a variance (§72-21) which expired on May 11, 2009 allowing the operation of a welding shop (UG 16A) contrary to §32-00; Waiver of the Rules. C6-6 zoning district. PREMISES AFFECTED – 597/99 Marcy Avenue, Southeast corner of Marcy and Vernon Avenues., Block 1759, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #3BK

193-97-BZ

APPLICANT – Fredrick A. Becker, for 29 Great Jones Corporation owner.

SUBJECT – Application 7/22/2009 – Extension of Term for a special permit (§73-36) which expired on April 1, 2008 for the operation of a Physical Culture Establishment (Great Jones Spa); Waiver of the Rules. M1-5B zoning

PREMISES AFFECTED – 27-29 Great Jones Street, Southerly side of Great Jones Street 69' easterly of the corner of Great Jones Street and Lafayette Street., Block 530, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEALS CALENDAR

228-09-A & 229-09-A

APPLICANT – Jordan Most of Sheldon Lobel, P.C., for Selvakumar Rajaratnam, owner.

SUBJECT – Application July 16, 2009 – An Appeal seeking a common law vested right to complete construction commenced under the prior R6B zoning district. R5Zoning District.

PREMISES AFFECTED – 37-45 and 37-47 98th Street, east side of 98th Street, Block 1761, Lots 48 and 49, Borough of Queens.

COMMUNITY BOARD #3Q

233-09-BZY

APPLICANT – Sheldon Lobel, P.C., for 175th Street Associates, LLC, owner.

SUBJECT – Application July 24, 2009 – Application to complete construction of a minor development (11-332) commenced under the prior R6 Zoning District. R4-1 Zoning District.

PREMISES AFFECTED – 91-12 175th Street, west side of 175th Street, Block 9809, Lot (Tent. 70), Borough of Queens.

COMMUNITY BOARD #12Q

CALENDAR

OCTOBER 6, 2009, 1:30 P.M.

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

ZONING CALENDAR

171-08-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for York Prep Realty, LLC., owner.

SUBJECT – Application June 26, 2008 – Variance (§72-21) to allow the enlargement of an existing school (York Prep) contrary to ZR Section 74-95 (City Planning Commission Housing Quality Special Permit). R8 district.

PREMISES AFFECTED – 40 West 68th Street, between Central Park West and Columbus Avenue, Block 1120, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #7M

225-09-BZ

APPLICANT – Antonio S. Valenziano, AIA, for Beacon Luigi, LLC, owner.

SUBJECT – Application July 14, 2009 – Variance (§72-21) for the construction of a single family residence on a vacant undersized lot, contrary to front yard (§23-45) regulations. R2 (LDGM) zoning district.

PREMISES AFFECTED – 45 Beacon Avenue, Beacon Avenue c/o Luigi Place, Block 948, Lot 27, Borough of Staten Island.

COMMUNITY BOARD #3SI

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 15, 2009
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

441-31-BZ

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

SUBJECT – Application April 24, 2009 – Extension of Term and Waiver of the Rules for the continued use of a Gasoline Service Station (*BP Amoco*) with accessory convenience store which expired on April 26, 2007. C2-2/R5 zoning district.

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 –

For Applicant: Ian Peter Barnes.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term for the continued use of a gasoline service station, which expired on April 26, 2007; and

WHEREAS, a public hearing was held on this application on June 23, 2009, after due notice by publication in *The City Record*, with continued hearings on July 28, 2009 and August 18, 2009, and then to decision on September 15, 2009; and

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

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application, on condition that the applicant adhere to the same terms and conditions that were imposed in the Board’s previous grant; and

WHEREAS, the site is located on the southeast corner of Flatlands Avenue and East 77th Street, in a C2-2 (R5) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 27, 1951 when, under the subject calendar number, the Board granted a variance to permit the construction of a gasoline service station,

lubratorium, auto washing, sale of accessories and office, for a term of 15 years; and

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

WHEREAS, on June 5, 1990, the term was extended for ten years from the expiration of the prior grant, to expire on April 26, 1997, and the grant was amended to permit: (1) the installation of a new steel canopy over three new gasoline pump islands; (2) the installation of a new eight-ft. by 18-ft. kiosk; (3) the demolition of the existing accessory building and canopy and the construction of a new 30-ft. by 60-ft. accessory building for accessory sales and storage; (4) the addition of six accessory parking spaces; and (5) the reduction in the size of the planting area along the southerly lot line; and

WHEREAS, most recently, on November 24, 1998, the term was extended for a term of ten years from the expiration of the prior grant, to expire on April 26, 2007, and the grant was amended to legalize an existing retail convenience store; and

WHEREAS, the applicant now requests an additional ten-year term; and

WHEREAS, at hearing, the Board questioned whether the center curb cut along Flatlands Avenue was in compliance with the previously-approved plans, which reflected a 25-ft. curb cut at that location; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the current size of the center curb cut along Flatlands Avenue is 35 feet, but that the existing curb cut configuration provides four curb cuts along Flatlands Avenue and East 77th Street with a total of 105 linear feet, which is equal to the total linear feet for the four curb cuts shown in the previously-approved plans; and

WHEREAS, the applicant proposes to maintain the existing curb cut configuration, and represents that the increased size of the center curb cut along Flatlands Avenue affords better ingress and egress to and from the site, thereby minimizing traffic congestion; and

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

WHEREAS, based upon the above, the Board finds that the requested extension of term and the alteration of the previously-approved curb cut configuration are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated February 27, 1951, so that as amended this portion of the resolution shall read: “to extend the term for ten years from April 26, 2007, to expire on April 26, 2017; *on condition* that all use and operations shall substantially conform to drawings filed with this application marked “Received April 24, 2009”-(1) sheet, “August 6, 2009”-(3) sheets and “September 11, 2009”-(1) sheet; and *on further condition*:

THAT the term of the grant shall expire on April 26, 2017;

THAT the above condition, and all prior conditions not

MINUTES

waived by the Board, shall be listed on the certificate of occupancy;

THAT a new certificate of occupancy shall be obtained by March 15, 2010;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 320008200)

Adopted by the Board of Standards and Appeals September 15, 2009.

719-56-BZ

APPLICANT – Walter T. Gorman, P.E., for ExxonMobil Corporation, owner; Victory Service Station Incorporated, lessee.

SUBJECT – Application July 14, 2009 – Extension of Time to obtain a certificate of occupancy for a Gasoline Service Station (*Mobil*), which expires on November 10, 2009. C2-1/R3-2 zoning district.

PREMISES AFFECTED – 2525 Victory Boulevard, northwest corner Willowbrook Road, Block 1521, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Cindy Bachan.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy for a gasoline service station with accessory uses, which expires November 10, 2009; and

WHEREAS, a public hearing was held on this application on August 11, 2009, after due notice by publication in *The City Record*, and then to decision on September 15, 2009; 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 northwest corner of the intersection at Victory Boulevard and Willowbrook Road, within a C2-1 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 25, 1957 when, under the subject calendar number, the Board granted a variance to permit the premises to be occupied as a gasoline service station with accessory uses for a term of ten years; and

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

WHEREAS, most recently, the grant was extended on February 10, 2009 for a term of ten years from the expiration of the prior grant, to expire on April 27, 2017; a condition of the grant was that a new certificate of occupancy be obtained by November 10, 2009; and

WHEREAS, as part of the prior grant, the applicant agreed to a number of site improvements, including the removal of dead trees from the site’s frontage along Montauk Place and the elimination of the middle curb cut on Victory Boulevard located approximately 60 feet west of Willowbrook Road; and

WHEREAS, the applicant further agreed to relocate site improvements behind widening lines established by the City of New York for Victory Boulevard and Willowbrook Road; and

WHEREAS, the applicant represents that it will be unable to obtain a certificate of occupancy by the stipulated date because the above-mentioned site improvements have not been performed; and

WHEREAS, the applicant further represents that it will complete the site improvements as part of a piping replacement project scheduled to begin in September 2009; and

WHEREAS, at hearing, the Board questioned whether the lot was being used for the storage of vehicles for sale; and

WHEREAS, in response, the applicant stated that the owner and operator were notified that no vehicles could be sold on site, and submitted photographs evidencing that vehicles are not being offered for sale at the site; and

WHEREAS, based upon the above, the Board finds that the requested extension of time to obtain a certificate of occupancy is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 25, 1957, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to June 15, 2010; *on condition* that all use and operations shall substantially conform to all BSA-approved drawings associated with the prior grant; and *on further condition*:

THAT a certificate of occupancy shall be obtained by June 15, 2010;

THAT all improvements on the site shall be relocated behind the widening lines established for Victory Boulevard and Willowbrook Road;

THAT the dead trees located on the site’s frontage along Montauk Place shall be replaced with new trees;

THAT the curb cut on Victory Boulevard located approximately 60 feet west of Willowbrook Road shall be eliminated and the curbing restored;

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

THAT the Department of Buildings must ensure

MINUTES

compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 510027506)

Adopted by the Board of Standards and Appeals, September 15, 2009.

271-81-BZ

APPLICANT – Mitchell S. Ross, Esq., for Pamela Equities Corporation, owners; New York Health and Racquet Club, lessees.

SUBJECT – Application June 4, 2009 – Extension of Term for a special permit (§73-36) which expired on October 6, 2006 for the operation of a Physical Culture Establishment (*New York Health and Racquet Club*); Amendment to legalize incidental alterations made to the interior layout; Extension of Time to obtain a Certificate of Occupancy which expired on October 31, 2001 and Waiver of the Rules. C6-6 zoning district.

PREMISES AFFECTED – 110/112 West 56th Street, Block 1008, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Mitchell Ross.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term of a previously granted special permit for a physical culture establishment (PCE), and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on July 28, 2009, after due notice by publication in *The City Record*, with a continued hearing on August 25, 2009, and then to decision on September 15, 2009; and

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

WHEREAS, Community Board 5, Manhattan, states that it has no objection to the application; and

WHEREAS, the PCE is located on the south side of West 56th street, between Sixth Avenue and Seventh Avenue, in a C6-6 zoning district;

WHEREAS, the site is located in the cellar, first floor, second floor, third floor, third floor mezzanine, fourth floor and fourth floor mezzanine of a 32-story mixed-use commercial/residential building; and

WHEREAS, the PCE has a total floor area of 22,581 sq. ft., with an additional 4,700 sq. ft. of space in the cellar; and

WHEREAS, the Board has exercised jurisdiction over

the subject site since October 6, 1981 when, under the subject calendar number, the Board granted a special permit to permit a PCE in the subject building for a term of five years; and

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

WHEREAS, most recently, on October 31, 2000, the Board granted a ten-year extension of term from the expiration of the previous grant, to expire on October 6, 2006; and

WHEREAS, a condition of the grant was that a new certificate of occupancy be obtained by October 31, 2001; and

WHEREAS, the applicant now seeks to extend the term of the special permit and to extend the time to obtain a certificate of occupancy; and

WHEREAS, the applicant also seeks to modify the PCE’s previously-approved hours of operation of Monday through Friday, from 7:30 a.m. to 10:00 p.m., and Saturdays and Sundays, from 10:00 a.m. to 6:00 p.m., to reflect the current hours of operation of Monday through Friday, from 5:30 a.m. to 11:00 p.m., and Saturdays and Sundays, from 8:00 a.m. to 10:00 p.m.; and

WHEREAS, at hearing, the Board asked the applicant if there are any residential units within the building that are adjacent to or above the PCE that could be affected by noise; and

WHEREAS, in response, the applicant confirmed that there are no residential units on the same level or below the PCE and that there are only three residential units on the floor directly above the PCE; and

WHEREAS, further, the applicant provided proof of notification of the tenants of the subject units; and

WHEREAS, the Board notes that it has not received oral or written testimony in opposition to the continuation of the PCE use; and

WHEREAS, additionally, the applicant provided a description of the sound attenuation measures, which include: (1) sound limiters on the classroom stereos; (2) one-inch thick rubber floor tiles throughout the gym to minimize any vibration or noise to the adjoining floors; (3) two-inch acoustic sound batting on the concrete slab of the ceiling of the highest floor occupied by the PCE; and (4) a ten-foot drop ceiling with acoustic ceiling tiles in the yoga studio and aerobic studio on the highest floor occupied by the PCE; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term, extension of time to obtain a certificate of occupancy, and modification of the hours of operation of the PCE are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on October 6, 1981, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from October 6, 2006, to expire on October 6, 2016, and to grant an extension of time to obtain a certificate of occupancy to September 15, 2010, *on condition* that all use and operations shall substantially conform to drawings filed with this application marked “Received June 4, 2009”-(11) sheets; and *on further condition*:

MINUTES

THAT the term of this grant shall expire on October 6, 2016;

THAT the following sound attenuation measures shall be provided: (1) locked sound limiters on all classroom stereos; (2) one-inch thick, dense rubber floor tiles throughout the gym; (3) two-inch thick fiberglass sound-insulating batting on the concrete slab of the ceiling of the highest floor occupied by the PCE; and (4) a ten-foot drop ceiling with acoustic ceiling tiles in the yoga studio and aerobic studio on the highest floor occupied by the PCE;

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

THAT a certificate of occupancy shall be obtained by September 15, 2010;

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

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

THAT the 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. 110199268)

Adopted by the Board of Standards and Appeals, September 15, 2009.

8-96-BZ

APPLICANT – Walter T. Gorman, P.E., for Motiva Enterprises LLC, owner; Shell Service Station, lessee.

SUBJECT – Application April 20, 2009 – Extension of Term for the continued use of a gasoline service station (*Shell*) which expired on July 16, 2006; Extension of Time to obtain a Certificate of Occupancy which expired on July 16, 2000; Amendment to legalize modification to the building; Waiver of the Rules. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 175-22 Horace Harding Expressway, southwest corner of Utopia Parkway, Block 6891, Lot 32, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Cindy Bachan.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for the continued use of a gasoline service station, an amendment to permit certain modifications to the site, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this

application on June 19, 2009, after due notice by publication in *The City Record*, with a continued hearing on August 25, 2009, and then to decision on September 15, 2009; and

WHEREAS, Community Board 8, Queens, recommends approval of this application; and

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

WHEREAS, the premises is located on the southwest corner of Horace Harding Expressway and Utopia Parkway, within a C2-2 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 31, 1950 when, under BSA Cal. No. 168-50-BZ, the Board granted a variance to permit the construction of a gasoline service station for a term of 15 years; and

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

WHEREAS, on December 10, 1968, under BSA Cal. No. 677-68-BZ, the Board granted an amendment under ZR § 11-412 to permit the construction of a one-story enlargement to the accessory building on the site; and

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

WHEREAS, most recently, on July 16, 1996, under the subject calendar number, the Board granted an application to permit the re-establishment of the expired grant for a gasoline service station, to expire on July 16, 2006; a condition of the grant was that a certificate of occupancy be obtained; and

WHEREAS, the applicant now requests an additional ten-year term and an extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant also seeks to legalize the following site conditions which vary from the previously-approved plans: a modification to the shape of the building; the partitioning of the utility room to create a small office area; and the relocation of the door to the storage area; and

WHEREAS, at hearing, the Board directed the applicant to: (1) install opaque screening in the fence located at the rear of the premises as shown on the approved plans; (2) restore the planting strip located along the western side of the property; (3) remove excess signage on the site; and (4) identify the use of the paved area located on the southwest portion of the site; and

WHEREAS, in response, the applicant submitted revised drawings reflecting that the fence located at the rear of the premises will be made 100 percent opaque, and submitted photographs reflecting that the planting strip along the western side of the property has been restored and the excess signage on the site has been removed; and

WHEREAS, in addition, the applicant states that the paved area located on the southwest portion of the site is used as additional space for the parking of vehicles awaiting service by the accessory auto repair shop, and that the area will not be used for overnight parking; and

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

WHEREAS, pursuant to ZR § 11-412, the Board may grant a request for changes to the site; and

MINUTES

WHEREAS, based upon its review of the record, the Board finds the requested extension of term, extension of time to obtain a certificate of occupancy, and the proposed amendments are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens, and amends the resolution, as adopted on July 16, 1996, so that as amended this portion of the resolution shall read: "to extend the term for ten years from July 16, 2006, to expire on July 16, 2016, to grant an extension of time to obtain a certificate of occupancy to March 15, 2010, and to permit the noted site modifications on condition that all work and the site layout shall substantially conform to drawings as filed with this application, marked "Received April 20, 2009"- (3) sheets and "August 10, 2009"- (3) sheets; and on further condition:

THAT the term of this grant shall expire on July 16, 2016;

THAT signage shall comply with C2-2 zoning district regulations;

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

THAT a new certificate of occupancy shall be obtained by March 15, 2010;

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 App. No. 420007539)

Adopted by the Board of Standards and Appeals, September 15, 2009.

55-97-BZ

APPLICANT – Sheldon Lobel, P.C. for Baker Tripi Realty, owner.

SUBJECT – Application March 18, 2009 – Extension of Term (§11-411) for an automotive repair facility (UG 16B), which expired on September 23, 2007 and Extension of Time to obtain a certificate of occupancy, which expired on September 23, 1998. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 76-36 164th Street, southwest corner of the intersection formed by 164th Street and 76th Road. Block 6848, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for the continued operation of an automotive repair shop (Use Group 16), and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on June 16, 2009, after due notice by publication in *The City Record*, with continued hearings on July 21, 2009, July 28, 2009, and August 18, 2009, and then to decision on September 15, 2009; and

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

WHEREAS, Community Board 8, Queens, recommends approval of this application; and

WHEREAS, the site is located on the southwest corner of the intersection at 164th Street and 76th Road, within a C2-2 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 12, 1961 when, under BSA Cal. No. 600-57-BZ Vol. II, the Board granted a variance to permit a gasoline service station, lubricatorium, minor repairs with hand tools, hand washing of cars, a store for the sale of tires and auto accessories and parking and storage of cars awaiting service, for a term of 25 years; and

WHEREAS, on September 15, 1992, under BSA Cal. No. 318-90-BZ, the Board granted a special permit under ZR § 11-411 to permit the re-establishment of the expired variance for an automotive service station with accessory uses, for a term of five years; and

WHEREAS, most recently, on September 23, 1997, under the subject calendar number, the Board permitted the renewal of the existing grant, a change of use from a gasoline service station with accessory uses to an automotive repair shop, and the enlargement and alteration of the building on the site, to expire on September 23, 2007; a condition of the grant was that a new certificate of occupancy be obtained; and

WHEREAS, the applicant now requests an additional ten-year term and an extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained due to administrative oversight; and

WHEREAS, the applicant also seeks a change in the previously approved plans to modify the layout of the site's parking spaces to better accommodate the parking and storage of cars awaiting service; and

WHEREAS, at hearing, the Board questioned whether the aisle widths in the proposed parking layout provide sufficient clearance for vehicles; and

WHEREAS, in response, the applicant submitted a revised site plan with dimensioned aisle widths, which establish that there is sufficient clearance for all vehicles in the proposed parking layout; and

MINUTES

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

WHEREAS, based upon the above, the Board finds that the requested extension of term and extension of time to obtain a certificate of occupancy are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated September 23, 1997, so that as amended this portion of the resolution shall read: “to extend the term for ten years from September 23, 2007, to expire on September 23, 2017, and to grant an extension of time to obtain a certificate of occupancy to March 15, 2010; *on condition* that all use and operations shall substantially conform to drawings filed with this application marked “Received March 18, 2009”-(2) sheets and “August 4, 2009”-(1) sheet; and *on further condition*:

THAT the term of the grant shall expire on September 23, 2017;

THAT a certificate of occupancy shall be obtained by March 15, 2010;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 410151482)

Adopted by the Board of Standards and Appeals, September 15, 2009.

261-98-BZ

APPLICANT – Sheldon Lobel, P.C. for Steve Steigelfest, owner.

SUBJECT – Application May 29, 2009 – Extension of Term of a variance (§72-21) for a UG16A warehouse for HVAC related uses in a residential district which expired on April 20, 2009; Amendment for the addition of a mezzanine level within the existing building. R6B zoning district.

PREMISES AFFECTED – 193 20th Street, North side of 20th Street, between 4th and 5th Avenues. Block 637, Lot 70, 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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening, an extension of term of a previously granted variance for a warehouse for the storage, sales, service and assembly of

commercial HVAC equipment and accessories (Use Group 16A), and an amendment for the addition of a mezzanine level within the existing building, which expired on April 20, 2009; and

WHEREAS, a public hearing was held on this application on August 11, 2009, after due notice by publication in *The City Record*, and then to decision on September 15, 2009; and

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

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

WHEREAS, the subject site is located on the north side of 20th Street, between Fourth Avenue and Fifth Avenue, in an R6B zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 20, 1999 when, under the subject calendar number, the Board granted a variance to permit the legalization of an existing warehouse for the storage, sales, service and assembly of commercial HVAC equipment and accessories for a term of ten years; and

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

WHEREAS, the applicant also seeks an amendment to permit the addition of a 1,519 sq. ft. mezzanine level within the existing building, thereby increasing the floor area of the building from 4,006 sq. ft. to 5,525 sq. ft.; and

WHEREAS, the applicant represents that the proposed mezzanine level is necessary to recapture space lost on the ground floor, which is partially being used for parking business vehicles in order to avoid using spaces on the street; and

WHEREAS, the applicant further represents that the mezzanine will be located entirely within the envelope of the existing building, will only be used for storage and other accessory uses, and will not increase the current operations at the site; and

WHEREAS, the applicant also seeks to reduce the hours of operation for the subject site from 7:30 a.m. to 4:30 p.m., Monday through Friday, to 8:00 a.m. to 4:00 p.m., Monday through Friday; and

WHEREAS, at hearing, the Board questioned the need for the chain-link fence with a height of eight feet proposed to be installed on the rear portion of the building’s roof; and

WHEREAS, in response, the applicant stated that the proposed fence is necessary for security purposes; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on April 20, 1999, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from April 20, 2009, to expire on April 20, 2019, and to permit the addition of a mezzanine level within the existing building, *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received May 29, 2009”-(7) sheets; and *on further condition*:

MINUTES

THAT the term of this grant shall expire on April 20, 2019;

THAT the hours of operation be limited to 8:00 a.m. to 4:00 p.m., Monday through Friday;

THAT the above conditions, and all prior conditions not waived by the Board, shall be listed on the certificate of occupancy;

THAT a new certificate of occupancy be obtained by March 15, 2010;

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

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

THAT the 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. 320022541)

Adopted by the Board of Standards and Appeals, September 15, 2009.

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*) which expired on June 7, 2009. R1-2 zoning district.

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

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening, an extension of time to complete the enlargement of an existing building occupied by both a synagogue and a religious school, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on July 21, 2009 after due notice by publication in *The City Record*, with a continued hearing on August 19, 2009, and then to decision on September 15, 2009; and

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

Commissioner Montanez; and

WHEREAS, the subject site is located on the east side of 108th Street, between 66th Road and 67th Avenue, within an R1-2 zoning district; and

WHEREAS, this application is submitted on behalf of the Beth Gavriel Bukharian Congregation (the “Synagogue”); and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 7, 2005 when, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to permit the enlargement of an existing building occupied by both a synagogue and a religious school; and

WHEREAS, substantial construction was to be completed by June 7, 2009, in accordance with ZR § 72-23; and

WHEREAS, the applicant represents that due to financing issues and other unforeseen construction delays, the construction has not been completed and the filing of an application for a certificate of occupancy has been delayed; and

WHEREAS, the applicant states that the Synagogue has obtained funding commitments and construction is now ongoing; and

WHEREAS, thus, the applicant now requests a three-year extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, at hearing, the Board raised concerns about a Stop Work Order issued by DOB on September 15, 2008 in connection with the revocation of a permit issued to the subject premises; and

WHEREAS, in response, the applicant submitted a letter from DOB that rescinded the notice of revocation of the permit, and the applicant states that no work was done at the site while the Stop Work Order was in effect; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 7, 2005, so that as amended this portion of the resolution shall read: “to grant a three-year extension of time to complete construction and obtain a certificate of occupancy, to expire on September 15, 2013; *on condition*:

THAT construction shall be substantially complete by March 15, 2012;

THAT a certificate of occupancy shall be obtained by September 15, 2012;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 401995828)

MINUTES

Adopted by the Board of Standards and Appeals,
September 15, 2009.

239-07-BZ

APPLICANT – New York City Board of Standards and Appeals

YHA New York Inc.

SUBJECT – Application for dismissal for lack of prosecution – Variance (§72-21) to permit a Use Group 4 community youth center in the cellar and a portion of the first floor in a proposed mixed-use building, contrary to ZR §24-35 (side yard). R5 zoning district.

PREMISES AFFECTED – 57-38 Waldron Street, Block 1959, Lot 27, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Todd Dole.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals,
September 15, 2009.

590-76-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Cinfiors Limited, owners.

SUBJECT – Application September 15, 2009 – Extension of Term of a previously granted Variance (§72-01(b)) for an existing illuminated sign that exceeds the permitted height above curb level. C2-8 zoning district.

PREMISES AFFECTED – 243 East 59th Street, northwest corner of 59th Street and Second Avenue, Block 1414, Lot 120, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 10 A.M., for continued hearing.

1259-79-BZ

APPLICANT – Sheldon Lobel, P.C., for Arabara, LLC, owner.

SUBJECT – Application August 13, 2009 – Extension of Time to complete construction and obtain a certificate of occupancy and Waiver of the Rules of a previously granted Variance (§72-21) for the conversion of all floors above the first floor from manufacturing lofts into residential dwellings which expired on October 6, 1984. M1-6 zoning district.

PREMISES AFFECTED – 29 West 26th Street, north side of West 26th Street, 350' east of Sixth Avenue, Block 826, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 10 A.M., for continued 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) to allow non-accessory radio towers and transmitting equipment on the roof of a 33-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; an Amendment to eliminate the condition that a new Certificate of Occupancy be obtained; and Waiver of the Rules. R3-2 zoning district.

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, Mike Littman and Errol Brett.
For Opposition: Barbara Leonardi and Dianne Stromfeld.

ACTION OF THE BOARD – Laid over to October 27, 2009, at 10 A.M., for continued hearing.

297-99-BZ

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

SUBJECT – Application June 1, 2009 – Extension of Term and Waiver of the Rules for the continued use of a Gasoline Service Station (*Mobil*) which expires on September 19, 2010. C2-2/R-6B zoning district.

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

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Cindy Bachan.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to October 6, 2009, at 10 A.M., for decision, hearing closed.

197-05-BZ

APPLICANT – Marvin Mitzner, Esq., for B&E 813 Broadway Realty, owner.

SUBJECT – Application April 17, 2009 – Amendment to a

MINUTES

variance (§72-21) to allow full commercial coverage on the ground floor and an increase in commercial FAR in a mixed use building. C6-1 zoning district.

PREMISES AFFECTED – 813/815 Broadway, west side of Broadway, 42' south of East 12th Street, Block 563, Lots 33 & 34, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Marvin Mitzner, Robert Pauls, Richard Cantor and Carl Fisher.

ACTION OF THE BOARD – Laid over to October 20, 2009, at 10 A.M., for continued hearing.

APPEALS CALENDAR

317-08-A

APPLICANT – Margaret R. Garcia, AIA, for Block 17 Lot 112 LLC, owner.

SUBJECT – Application December 23, 2008 – Proposed construction of a four-story dwelling located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED – 124 Montgomery Avenue, west side of Montgomery Avenue, 140' north of Victory Boulevard, Block 17, Lot 112, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Superintendent, dated December 2, 2008, acting on Department of Buildings Application No. 510020228, reads in pertinent part:

“Proposed construction of a four-story apartment building, Use Group Two, in R5 residential zoning district is located within the bed of a mapped street contrary to Section 35 of the General City Law and therefore referred to the Board of Standards and Appeals for approval;” and

WHEREAS, this application requests permission to build a four-story multi-family detached residence in the bed of mapped Victory Boulevard Extension; and

WHEREAS, a public hearing was held on this application on May 19, 2009, after due notice by publication in the *City Record*, hearing postponed until August 25, 2009, hearing closed and then to decision on September 15, 2009; and

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

Montanez; and

WHEREAS, by letter dated September 10, 2009, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated January 23, 2009, the Department of Environmental Protection (DEP) states that it has reviewed the application and advises the Board that there are no existing sewers or existing City water mains in the bed of Victory Boulevard Extension between Montgomery Avenue and Monroe Avenue, and that the latest Drainage Plan No. PRD-2D (sheet 8 of 9) calls for two future ten-inch diameter sanitary sewers and one 12-inch diameter storm sewer in the bed of the Victory Boulevard Extension between Montgomery Avenue and Monroe Avenue; and

WHEREAS, DEP also notes that the final Tax Map, Block 17, Lots 1, 2, 3 and 4 are fronting an existing 18-inch diameter combined sewer in Monroe Avenue north of Victory Boulevard; Block 17, Lots 125 and 126 are fronting an existing 3'-10" by 5'-9" combined sewer in Victory Boulevard between Montgomery Avenue and Monroe Avenue; and Block 17, Lots 116 and 118 are fronting the 18-inch diameter combined sewer in Montgomery Avenue; and

WHEREAS, based on the above, DEP states that it has no objection to the subject proposal; and

WHEREAS, by letter dated April 22, 2009, the Department of Transportation states that it has reviewed the application and 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 Staten Island Borough Superintendent, dated December 2, 2008, acting on Department of Buildings Application No. 510020228 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 August 31, 2009" – (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, September 15, 2009.

MINUTES

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 use 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

APPEARANCES –

For Applicant: Sandy Anagnostov.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to October 6, 2009, at 10 A.M., for decision, hearing closed.

38-09-A

APPLICANT – Benjamin Lam, for Lee Zhen Xiang, owner.

SUBJECT – Application March 6, 2009 – Proposed construction of a three-family home located within the bed of mapped street, contrary to General City Law, Section 35. R-5 zoning district.

PREMISES AFFECTED – 72-45 43rd Avenue, corner of 43rd Avenue and 74th Street, Block 1353, Lot 46, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 10 A.M., for postponed hearing.

170-09-A

APPLICANT – NYC Department of Buildings

OWNER – Kenbridge Realty Corporation

SUBJECT – Application April 3, 2009 – An appeal filed by the Department of Buildings seeking to amend Certificate of Occupancy to remove the reference to "Adult" Establishment "use on the second floor. M1-5/R-9 Special Mixed Use District.

PREMISES AFFECTED – 24-03 Queens Plaza North, northeast corner of Queens Plaza North and 24th Street, Block 414, Lot 5, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: John Beene and Marvin Mitzner.

ACTION OF THE BOARD – Laid over to November 24, 2009, at 10 A.M., for continued hearing.

181-09-A

APPLICANT – Fire Department of New York, for

Koppelman Management, owner; Alexander and Sons Upholstery, lessees.

SUBJECT – Application June 1, 2009 – An appeal filed by the NYC Fire Department seeking a Modification of Certificate of Occupancy to require an approved Automatic Wet Sprinkler system throughout the cellar and first floor of a commercial use. R8 zoning district.

PREMISES AFFECTED – 410 East 64th Street, Block 1458, Lot 41, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Anthony Scaduto, FDNY.

For Opposition: Edward Ozery.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to October 6, 2009, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, AUGUST 11, 2009
1:30 P.M.**

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

ZONING CALENDAR

168-09-BZ

APPLICANT – Lewis E. Garfinkel R.A., for Yaakov Miller, owner.

SUBJECT – Application May 7, 2009 – Special Permit (§73-622) to combine two semi-attached homes to create one single family home, contrary to floor area and open space (ZR §23-141(a)), and rear yard (ZR §23-47) regulations. R2 zoning district.

PREMISES AFFECTED – 1435 & 1437 East 26th Street, east side of East 26th Street, 292’ south of Avenue N, Block 7680, Lots 34 and 35, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 30, 2009, acting on Department of Buildings Application No. 310319759, reads:

- “1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio (FAR) exceeds the permitted 50%.
2. Proposed plans are contrary to ZR 23-141(a) in that the proposed open space ratio (OSR) is less than the required 150%.
3. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30’-0”;

and
WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of two semi-detached single-family homes, to be converted into one single-family home which does not comply with the zoning requirements for floor area, open space ratio, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on July 14, 2009 after due notice by publication in *The City Record*, with a continued hearing on August 11, 2009, and then to decision on September 15, 2009; and

WHEREAS, the premises and surrounding area had

site and neighborhood examinations by Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

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

WHEREAS, the subject site is located on the east side of East 26th Street, between Avenue N and Avenue O, in an R2 zoning district; and

WHEREAS, the site consists of two lots, Lots 34 and 35, which the applicant proposes to merge into a single lot, Tentative Lot 35, in order to remodel and enlarge the two existing semi-detached single-family homes and convert them into one single-family home; and

WHEREAS, the subject site has a total lot area of 4,800 sq. ft., and is occupied by two semi-detached single-family homes, with a total floor area of 2,932 sq. ft. (0.61 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 2,932 sq. ft. (0.61 FAR) to 4,800 sq. ft. (1.0 FAR); the maximum floor area permitted is 2,400 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 53 percent (150 percent is the minimum required); and

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

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

WHEREAS, in response, the applicant submitted revised plans showing that portions of the existing cellar, first floor and second floor walls, and a portion of the existing first floor and floor joists 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 and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622 and § 73-03, to permit, within an R2 zoning district,

MINUTES

the proposed enlargement of two semi-detached single-family homes, to be converted into one single-family home which does not comply with the zoning requirements for floor area, open space ratio, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received August 31, 2009"-(1) sheet and "September 14, 2009"-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of 4,800 sq. ft. (1.0 FAR); an open space ratio of 53 percent; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

THAT DOB shall confirm that the portions of the existing building shall be retained as illustrated on the BSA-approved plans marked A-2, A-3, A-4, A-12, A-13 and A-14;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, September 15, 2009.

195-09-BZ

APPLICANT – Mark Levine, Esq., Herrick, Feinstein LLP, for Brooklyn Academy of Music, Incorporated, owner.

SUBJECT – Application June 24, 2009 – Variance (§72-21) for a community facility building (*Brooklyn Academy of Music*), contrary to required rear yard (§33-26). C6-1 zoning district.

PREMISES AFFECTED – 321 Ashland Place, east side of Ashland Place between Lafayette Avenue and Hanson Place, Block 2111, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Mark Levine.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 19, 2009, acting on Department of Buildings Application No. 310223460, reads in pertinent part: "Provide minimum rear yard of 20 feet (ZR 33-26);"

and

WHEREAS, this is an application under ZR § 72-21, to permit, within a C6-1 zoning district, within the Special Downtown Brooklyn District, the Brooklyn Academy of Music ("BAM") Historic District, and the BAM Cultural District, the construction of a building which does not comply with rear yard regulations for the proposed community facility, contrary to ZR § 33-26; and

WHEREAS, a public hearing was held on this application on August 11, 2009, after due notice by publication in the *City Record*, and then to decision on September 15, 2009; and

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

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

WHEREAS, City Council Member Letitia James provided testimony in support of the proposal; and

WHEREAS, the Downtown Brooklyn Partnership provided testimony in support of the proposal; and

WHEREAS, certain community members provided written and oral testimony in support of the proposal; and

WHEREAS, the Brooklyn Music School submitted written testimony in opposition to the variance, asserting that the site is not unique and that the hardship is self-created because the rear yard requirement could be eliminated through a zoning lot merger with the music school's site which could create a through lot condition; and

WHEREAS, the application is brought on behalf of the Brooklyn Academy of Music ("BAM"), a nonprofit cultural institution; and

WHEREAS, the site is located on the east side of Ashland Place, between Lafayette Avenue and Hanson Place; and

WHEREAS, the site has a lot area of approximately 7,213 sq. ft.; and

WHEREAS, the site is occupied by a two-story building, which was built in 1928 for the Salvation Army and is now occupied primarily by storage and archives for BAM (the "Salvation Army Building"); and

WHEREAS, the building has a floor area of approximately 7,485 sq. ft. (1.04 FAR); and

WHEREAS, the applicant proposes to construct a 28,264 sq. ft. (3.91 FAR) building on the Salvation Army Building site (the "Fisher Building"); the façade and two-story portion of the Salvation Army Building (with an associated 3,638 sq. ft. of floor area) will be maintained and incorporated into the Fisher Building, pursuant to an approval from the Landmarks Preservation Commission ("LPC"); and

WHEREAS, the rear portion of the Salvation Army Building, which extends to the rear lot line, will be demolished and replaced with the new seven-story Fisher Building, which

MINUTES

will be set back approximately 23 feet from the front lot line and rise to a height of approximately 83 feet; and

WHEREAS, the existing building is non-complying as to the required rear yard, with lot coverage of approximately 98 percent; and

WHEREAS, the applicant represents that the proposed building will not create any new or increase any non-compliances except for the rear yard requirement; and

WHEREAS, the maximum permitted FAR for a community facility in the subject zoning district is 6.5 and the maximum permitted building height is 185 feet; and

WHEREAS, the Fisher Building will be occupied by (1) a theater (first and second floor), (2) theater lighting (third floor), (3) classroom/workshop/rehearsal space (fourth floor), (4) mechanicals (portions of fifth through seventh floors), (5) classrooms and office space (sixth floor), and (6) performance/community space/terrace (seventh floor); and

WHEREAS, the applicant represents that the variance request is necessitated by unique conditions of the site that create a hardship, specifically: (1) the constraints of the existing site, including the obsolescence of the existing building, the shallowness of the lot, and the requirements of the LPC and (2) the programmatic needs of BAM; and

WHEREAS, as to the obsolescence of the existing building, the applicant represents that the Salvation Army Building, which was built for a specific user in 1928, cannot accommodate the conversion into an educational and cultural facility as it is not large enough; and

WHEREAS, the applicant notes that the Salvation Army Building covers the entire lot and does not provide a rear yard, which results in a portion of the second floor encroaching into the required rear yard; and

WHEREAS, the applicant represents that, notwithstanding the LPC requirement for a setback, the Fisher Building could not feasibly be constructed further towards the front of the site and above the Salvation Army Building because the latter is structurally insufficient to accommodate the construction of the Fisher Building's third through seventh floors above it and thus those floors must be shifted back into the rear portion of the site; and

WHEREAS, the applicant represents that there would be significant structural concerns and costs associated with cantilevering or otherwise providing structural support of the Fisher Building over the Salvation Army Building above the second floor; and

WHEREAS, the applicant represents that such a proposal would also incur additional costs due to the need to perform foundation work within the New York City Transit line of influence; and

WHEREAS, as to the shallowness of the lot, the applicant represents that compared to other sites within the BAM Cultural District and/or BAM Historic District that are feasible for the development of cultural and educational facilities, the site is small and shallow; and

WHEREAS, the applicant notes that other sites available for redevelopment by cultural facilities are either larger or on corner lots, without rear yard requirements; and

WHEREAS, the applicant notes that the subject site

has a depth of 90 feet and if the 20-ft. rear yard were provided, the resultant floorplates would be insufficient to accommodate BAM's programmatic needs; and

WHEREAS, as to LPC requirements, as noted, the applicant represents that LPC has required that the front of the Fisher Building be set back approximately 23 feet from the street, in order to preserve the façade of the Salvation Army Building, and that the total height be limited to 86 feet in order to line up with the adjacent Peter Jay Sharp Building to the north of the site; and

WHEREAS, the applicant notes that if BAM were required to both set the Fisher Building back 23 feet at the front and 20 feet at the rear, the resultant floorplate would have a depth of only 67 feet and would result in the reduction of 20 percent of the total floor area proposed; and

WHEREAS, further, due in part to LPC's direction, the Fisher Building's mechanical system cannot be located on the roof since it is sizeable and would be visible from the street and thus must be located within the building; and

WHEREAS, due to programmatic needs for the cellar and roof, the applicant cannot locate the mechanicals therein and has determined that the proposed location for the mechanicals on the fifth, sixth, and seventh floors is the best design to maximize the space allocated to BAM's program; and

WHEREAS, the applicant represents the proposed volume of mechanical space is required to support the required acoustical system for the theater and to help satisfy the requirements for Leadership in Energy and Environmental Design ("LEED") silver rating or better as set forth in Local Law 86; and

WHEREAS, as to programmatic needs, the applicant states that the Fisher Building will provide facilities, which are not otherwise located within BAM's facilities; the requirements include (1) a 252-seat flexible theater space, which will be used for educational programs and performances and will be available for use by local organizations at subsidized rates; and (2) rehearsal/classroom/workshop space to accommodate small performances, rehearsals, and educational programs; and

WHEREAS, the site was selected for the Fisher Building because of its proximity to BAM's other facilities within the BAM Cultural District, which will permit BAM to operate more efficiently by consolidating certain programs which are now located in separate BAM buildings; and

WHEREAS, additionally, the Fisher Building will offer a specific size of theater and education space not currently available to students and the community; and

WHEREAS, as to the building design, the applicant asserts that a 252-seat theater, lobby, and related resources on the first and second floors could not be accommodated on a complying floorplate with a depth of 70 feet; and

WHEREAS, the applicant represents that if the building were redesigned to provide a 20-ft. rear yard, the theater would need to be rotated on the site and the amount of seats reduced to 155; and

WHEREAS, the applicant asserts that such a redesign

MINUTES

would not allow BAM to provide the flexible space required for its program; and

WHEREAS, the applicant asserts that 250 seats is the minimum required to accommodate the demand for community groups and educational programming; and

WHEREAS, additionally, the applicant notes that any fewer seats would not be economically viable due to the cost of operations and the need to maximize income from performances; and

WHEREAS, the Board finds that these programmatic needs are legitimate, and agrees that the enlargement is necessary to address BAM's programmatic needs, given the limitations of the site and the Salvation Army Building; and

WHEREAS, the applicant represents that it is unable to feasibly accommodate the programmatic needs within an as-of-right building envelope; and

WHEREAS, at hearing, the Board directed the applicant to submit building plans for a complying building and to describe the insufficiency of the as of right scenario; and

WHEREAS, in response, the applicant submitted building plans, which provide a rear yard with a depth of 20 feet and which reflect a 20 percent loss in program space; and

WHEREAS, specifically, the constraints include that: (1) the theater would need to be rotated and would only accommodate 155 seats (a 40 percent reduction), which would reduce the number of students expected to attend each production by approximately 400; (2) flexible seating arrangements would not be viable in the limited space; (3) a smaller lobby would reduce efficiency; (4) the mechanicals would be required to be relocated and would potentially create noise and vibrations within the performance space; (5) the audio visual rack would need to be separated from the lighting grid; (6) the volume of the multipurpose room would be reduced, which would preclude certain uses; and (7) the elevator tower would be moved to the front of the building and be visible from the street; and

WHEREAS, accordingly, based upon the above, the Board finds that the limitations and inefficiencies of the existing building, when considered in conjunction with the programmatic needs of BAM, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

WHEREAS, the applicant represents that the surrounding area is mixed-use in character and is occupied by an increasing number of cultural institutions in keeping with the City's designation of the area as the BAM Cultural District; and

WHEREAS, the proposed facility will supplement the

existing facilities and fill a void for larger educational programs and affordable community space; and

WHEREAS, in close proximity to the site, there is the 37-story full lot coverage Williamsburgh Savings Bank building to the south, BAM's five-story (height of 86 feet) Peter Jay Sharp Building to the north, a number of commercial buildings to the south and west, including those at Atlantic Center, which includes a 14-story office tower; and

WHEREAS, as to the Fisher Building design, the Board notes that the applicant received a Certificate of Appropriateness from the LPC, dated August 13, 2009, and that the approved design includes decorative brick veneer to be installed over masonry acoustic wall, punctuated by bay windows, which is compatible with the architectural details of the BAM Historic District; and

WHEREAS, the applicant asserts that the Salvation Army Building, portions of which will remain, is compatible with the context of the immediate area and is a full lot coverage building; and

WHEREAS, the applicant notes that the building directly to the east, occupied by the Brooklyn Music School is a four-story pre-existing full lot coverage building; and

WHEREAS the applicant notes that there is a small open area between the Brooklyn Music School building and the proposed Fisher Building, which will remain; and

WHEREAS, further, the applicant notes that there are not any lot line windows on the rear wall of the Brooklyn Music School building which would be affected by the Fisher Building; and

WHEREAS, the Peter Jay Sharp Building similarly does not have any lot line windows, which will be affected and the open alley between it and the Fisher Building will be maintained; and

WHEREAS, additionally, the applicant notes that the proposed building complies with all other bulk parameters and the use is permitted as of right; 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 BAM could occur on the existing site; and

WHEREAS, the Board directed the applicant to respond the Brooklyn Music School's assertion that the purported hardship was self-created; and

WHEREAS, the applicant states that the site is unique and is constrained due to the obsolescence of the building, the shallowness of the lot, and the requirements of the LPC, none of which were created by the owner or a predecessor in interest; and

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

WHEREAS, the applicant represents that the requested

MINUTES

rear yard waiver is the minimum relief necessary to accommodate the projected programmatic needs; and

WHEREAS, the Board has reviewed the applicant's program needs and assertions as to the insufficiency of a complying scenario and has determined that the rear yard relief is the minimum necessary to allow BAM to fulfill its programmatic needs; 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 Department of Cultural Affairs 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. 09CLA004B, dated June 1, 2009; and

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

WHEREAS, 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 Department of Cultural Affairs 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 the Board of Standards and Appeals makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an C6-1 zoning district, within the Special Downtown Brooklyn District, the BAM Historic District, and the BAM Cultural District, the construction of a building which does not comply with rear yard regulations for the proposed community facility, contrary to ZR § 33-26, *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 June 24, 2009" – (4) sheets and "July 31, 2009" – (10) sheets; and *on further condition*:

THAT the parameters of the Fisher Building shall be a total height of 83 feet, and a total floor area of 28,264 sq. ft. (3.91 FAR);

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 construction be performed in conformance with all LPC approvals and requirements including the Certificate of Appropriateness dated August 13, 2009;

THAT construction shall be completed pursuant to ZR §

72-23;

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, September 15, 2009.

256-07-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP for Hayden Rester, owner.

SUBJECT – Application November 5, 2007 – Variance (§72-21) to permit a three-story, five-unit residential building, contrary to use regulations (§42-00). M1-1 zoning 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: Todd Dale.

ACTION OF THE BOARD – Laid over to October 27, 2009, at 1:30 P.M., for continued hearing.

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. 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.

ACTION OF THE BOARD – Laid over to October 20, 2009, at 1:30 P.M., for deferred decision.

186-08-BZ

APPLICANT – Petrus Fortune, P.E., for Kevin Mast. Chairman, Followers of Jesus Mennonite Church, owner.

SUBJECT – Application July 10, 2008 – Special Permit (§73-19) to allow the legalization and enlargement of a school in a former manufacturing building, contrary to ZR §42-10. M1-1 zoning district.

PREMISES AFFECTED – 3065 Atlantic Avenue, northwest corner of Atlantic Avenue and Shepherd Avenue, Block 3957, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #5BK

MINUTES

APPEARANCES –

For Applicant: James E. Gochnauer, Petrus Fortune, Lowell J. Herschberger, Gene DeCamp, Elizabeth Oporta, David Gray Bill, Allen Roth and Angel Vasquez.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 1:30 P.M., for continued hearing.

187-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation and Yeshiva Machzikei Hadas, Inc., owner.

SUBJECT – Application July 11, 2008 – Variance (§72-21) to permit the construction of a six-story community facility building (*Congregation & Yeshiva Machzikei Hadas*), contrary to ZR §42-00. M2-1 zoning district.

PREMISES AFFECTED – 1247 38th Street, east side of 38th Street, between 13th and 12th Avenue, Block 5295, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel, Council Member Felder and Jacob Unger.

ACTION OF THE BOARD – Laid over to October 27, 2009, at 1:30 P.M., for continued hearing.

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, contrary to §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

APPEARANCES –

For Applicant: Yankov Goldstein.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 1:30 P.M., for adjourned hearing.

210-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Samaritan Foundation, Inc., owner.

SUBJECT – Application August 15, 2009 – Variance (§72-21) to permit two-story enlargement to an existing two-story building for a UG 3 drug treatment facility with sleeping accommodations (*Samaritan Village*), contrary to use regulations (ZR §43-00). M1-1 district.

PREMISES AFFECTED – 130-15 89th Road, north side of 89th Road, approximately 125' east of 130th Street, Block 9338, Lot 147, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 1:30 P.M., for deferred decision.

7-09-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Sandra Zagelbaum and Yechiel Zagelbaum, owners.

SUBJECT – Application January 20, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to open space and floor area (§23-141), side yards (§23-461) and rear yard (§23-47) regulations. R-2 zoning district.

PREMISES AFFECTED – 1082 East 26th Street, East 26th Street, between Avenue J and Avenue K, Block 7607, Lot 85, Borough of Brooklyn.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to October 6, 2009, at 1:30 P.M., for decision, hearing closed.

46-09-BZ

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

SUBJECT – Application March 23, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141(b)), side yards (§23-461) and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 122 Oxford Street, between Shore Boulevard and Oriental Avenue, Block 8757, Lot 92, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to October 6, 2009, at 1:30 P.M., for decision, hearing closed.

161-09-BZ

APPLICANT – Rizzo Group, for 25 Garfield Sparta, LLC, owner.

SUBJECT – Application April 23, 2009 – Variance (§72-21) for the development of two residential buildings (20 dwelling units) contrary to rear yard equivalent, floor area, lot coverage, minimum distance between buildings and minimum distance between legally required window

MINUTES

regulations (§§ 23-532, 23-145, 23-711, 23-861). R6B zoning district.

PREMISES AFFECTED – 580 Carroll Street (25 Garfield Place) Carroll Street/Garfield Place, between Fourth and Fifth Avenue, Block 951, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant:

ACTION OF THE BOARD – Laid over to November 17, 2009, at 1:30 P.M., for adjourned hearing.

176-09-BZ

APPLICANT – Bryan Cave LLP/Margery Purlmutter, for City of New York, owner.

SUBJECT – Application May 25, 2009 – Special Permit (§73-64) to waive height and setback regulations (§33-432) for a community facility building (*Fashion Institute of Technology*). C6-2 District.

PREMISES AFFECTED – 220-236 West 28th Street, south side of West 28th Street, between Seventh and Eighth Avenues, Block 777, Lots 1, 18, 37, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 1:30 P.M., for deferred decision.

183-09-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 1400 5th Commercial LLC, owner; TSI West 115th Street LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application June 4, 2009 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*NY Sports Club*) on a portion of the ground floor and cellar in an eight-story mixed-use building. C4-5X zoning district.

PREMISES AFFECTED – 1400 5th Avenue, Northeast corner of 5th Avenue and West 115th Street. Block 1599, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Lyra Altman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to October 20, 2009, at 1:30 P.M, for decision, hearing closed.

198-09-BZ

APPLICANT – Eric Palatnik, P.C., for Chelsea Lofts Corp., owner; Personal Training Institute, lessee.

SUBJECT – Application June 29, 2009 – Special Permit (§73-36) to allow the operation of the proposed physical culture establishment (*Personal Training Institute*) on the

first floor of an eight-story building. C6-3A zoning district. PREMISES AFFECTED – 143 West 19th Street, between Sixth and Seventh Avenues, Block 795, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to October 20, 2009, at 1:30 P.M, for continued hearing.

226-09-BZ

APPLICANT – Mitchell S. Ross, Esq., for Fraydun Enterprises, LLC, owner; New York Health and Racquet Club, lessee.

SUBJECT – Application June 19, 2009 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*New York Health & Racquet Club*) on the cellar through second floors of a six-story mixed-use building. C6-1 zoning district.

PREMISES AFFECTED – 24 East 13th Street, south side of East 13th Street, 142'-2 & 3/4" west of University Place, Block 570, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Mitchell S. Ross.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.