
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 95, No. 35

September 1, 2010

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

Commissioners

Jeffrey Mulligan, *Executive 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

DOCKET	555
CALENDAR of September 21, 2010	
Morning	556
Afternoon	556/557

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, August 24, 2010**

Morning Calendar558

Affecting Calendar Numbers:

589-31-BZ	159-02 Meyer Avenue, Queens
736-45-BZ	3740 Broadway, Manhattan
44-97-BZ	78-80 Leonard Street, Manhattan
174-00-BZ	79 Worth Street, Manhattan
44-99-BZ	194 Brighton Avenue, Staten Island
752-29-BZ	8801-8809 4 th Avenue, Brooklyn
395-60-BZ	2557-2577 Linden Boulevard, Brooklyn
914-86-BZ	1-19 Eastern Parkway, Brooklyn
16-92-BZ	72/84 Sullivan Street, aka – 115 King Street, Brooklyn
214-00-BZ	2777 Plumb 2 nd Street, Brooklyn
124-05-BZ	382 Greenwich Street, Manhattan
120-10-A	5 Devon Walk, Queens
43-08-A	144-25 Bayside Avenue, Queens
3-10-A & 4-10-A	144-25 Bayside Avenue, Queens
10-10-A	1882 East 12 th Street, Brooklyn

Afternoon Calendar565

Affecting Calendar Numbers:

14-09-BZ	2294 Forest Avenue, Staten Island
327-09-BZ	255 Butler Street, Brooklyn
88-10-BZ	1327 East 21 st Street, Brooklyn
98-10-BZ	44 Lispenard Street, Manhattan
129-07-BZ	1101 Irving Avenue, Queens
130-07-BZ thru 134-07-BZ	1501, 1503, 1505, 1507 Cooper Avenue, Queens
210-07-BZ	15 Luquer Street, Brooklyn
98-08-BZ	583 Franklin Avenue, Brooklyn
24-09-BZ	78-10 164 th Street, Queens
31-09-BZ	117-04 Sutphin Boulevard, Queens
173-09-BZ	845 Broadway, Brooklyn
189-09-BZ	3067 Richmond Terrace, Staten Island
190-09-A	3067 Richmond Terrace, Staten Island
297-09-BZ	180 Ludlow Street, Manhattan
305-09-BZ	110-04 Atlantic Avenue, Queens
21-10-BZ	2801 Roelbing Avenue, aka – 1590 Hutchinson River Parkway, Bronx
35-10-BZ	144-11 77 th Avenue, Queens
39-10-BZ	2032 East 17 th Street, Brooklyn
47-10-BZ	895 Zerega Avenue, aka – 2352 Story Avenue, Bronx

DOCKET

New Case Filed Up to August 24, 2010

153-10-A

101-01 39th Avenue, Between 101st Street and 102nd Street., Block 1767, Lot(s) 59,
Borough of **Queens, Community Board: 3**. Construction within the mapped stret, contary
to General City Law 35. R5 district.

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

CALENDAR

SEPTEMBER 21, 2010, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 21, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

826-86-BZ thru 828-86-BZ

APPLICANT – Eric Palatnik, for North Shore Tower Apartment, Inc., owner; Continental Communications, lessee.

SUBJECT – Application August 26, 2010 – Extension of Time to obtain a Certificate of Occupancy of a previously granted Special Permit (§73-11) to allow non-accessory radio towers and transmitting equipment on the roof of a multiple dwelling (*North Shore Towers*) which expired on July 26, 2010. R3-2 zoning district.

PREMISES AFFECTED – 269-10, 270-10, 271-10 Grand Central Parkway, northeast corner of 267th Street, Block 8489, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

855-87-BZ

APPLICANT – Glen V. Cutrona, AIA, for Michael Beck, owner; Mueller Distributing, lessee.

SUBJECT – Application June 15, 2010 – Amendment to a previously granted Variance (§72-21) to remove the term for a (UG16) warehouse with (UG6) offices on the mezzanine level. R3A zoning district.

PREMISES AFFECTED – 15 Irving Place, bound by Van Duzer Street and Delford Street, Block 639, Lot 10, Borough of Staten Island.

COMMUNITY BOARD #1SI

181-06-BZ

APPLICANT – Goldman Harris LLC, for 471 VE LLC c/o Vella Group, owner; 471 VE LLC c/o Vella Group, lessee.

SUBJECT – Application September 21, 2010 – Amendment to a previously granted Variance (§72-21) to change the permitted ground floor retail to residential in a nine story building. M1-5/Area B-2 (TMU) zoning district.

PREMISES AFFECTED – 471 Washington Street, southeast corner of Washington Street and Canal Street, Block 595, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEALS CALENDAR

137-08-A thru 139-08-A

APPLICANT – Philip L. Rampulla, for Joseph Noce, owner.
SUBJECT – Application May 5, 2008 – Proposed construction of a one family residence within the bed of a legally mapped street contrary to General City Law Section 35. R1-2 zoning district.

PREMISES AFFECTED – 50, 55, 60 Blackhorse Court, south side of Richmond Road, 176.26' south of Blackhorse Court, Block 4332, Lots 34, 28, 30, Borough of Staten Island.

COMMUNITY BOARD #2SI

38-10-A

APPLICANT – Jack Lester, Esquire for Anthony Naletilic.
OWNER - K.J. Chung/Jesus Covent Church.

SUBJECT – Application March 33, 2010 – Appeal challenging the Department of Building's issuance of a building permit for a House of Worship that fails to meet the parking requirement under ZR §25-35.

PREMISES AFFECTED – 26-18 210th Street, corner lot on 27th Avenue and 210th Street, Block 5992, Lot 36, Borough of Queens.

COMMUNITY BOARD #11Q

SEPTEMBER 21, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 21, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

267-09-BZ

APPLICANT – NYC Department of Housing Preservation & Development for The City of New York, owner.

SUBJECT – Application September 18, 2009 – Variance (§72-21) to permit one eight-story residential building and one ten-story mixed-use building with residential units and ground floor retail use on Block 4007, Lot 15 and one ten-story mixed-use building with residential units and ground floor retail use on Block 3909, Lot 8. The proposal is contrary to ZR §42-00. M1-1 zoning district.

PREMISES AFFECTED – 1155-75 East Tremont Avenue, (aka 1160 Lebanon Street). Block bounded by Lebanon Street to the north, Morris Park Avenue to the east, East Tremont Avenue to the south and Bronx Park Avenue to the west. Block 4007, Lot 15, Borough of Bronx.

COMMUNITY BOARD #6BX

CALENDAR

268-09-BZ

APPLICANT – NYC Department of Housing Preservation & Development for The City of New York, owner.

SUBJECT – Application September 18, 2009 – Variance (§72-21) to permit one eight-story residential building and one ten-story mixed-use building with residential units and ground floor retail use on Block 4007, Lot 15 and one ten-story mixed-use building with residential units and ground floor retail use on Block 3909, Lot 8. The proposal is contrary to ZR §42-00. M1-1 zoning district.

PREMISES AFFECTED – 1157-67 East 178th Street, (aka 1176 East Tremont Avenue). Block bounded by East Tremont Avenue to the north, Morris Park Avenue to the east, East 178th Street to the south and Bronx Park Avenue to the west. Block 3909, Lot 8, Borough of Bronx.

COMMUNITY BOARD #6BX

89-10-BZ

APPLICANT – Francis R. Angelino, Esq., for National Sculpture Society, owner.

SUBJECT – Application May 13, 2010 – Variance (§72-21) to allow for a commercial use below the floor level of the second story, contrary to ZR §42-14(D)(2)(b). M1-5B zoning district.

PREMISES AFFECTED – 53 Mercer Street, west side between Grand and Broome Streets, Block 474, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #2M

92-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Lancaster Incorporated, owners.

SUBJECT – Application May 20, 2010 – Variance (§72-21) to allow for the construction of an elevator in an existing residential building, contrary to floor area, open space, (ZR §23-142) and court regulations (ZR §23-85, §23-87). R7-2 zoning district.

PREMISES AFFECTED – 39 East 10th Street, north side of 10th Street, between University Place and Broadway, Block 562, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #2M

112-10-BZ

APPLICANT – Sheldon Lobel, P.C., for John Grant, owner.

SUBJECT – Application June 18, 2010 – Special Permit (§73-44) to permit reduction in required parking in connection with the second floor change of use from UG 16 to UG 6. M1-1 zoning district.

PREMISES AFFECTED – 915 Dean Street, north side of Dean Street between Classon and Grand Avenues, Block 1133, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #8BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, AUGUST 24, 2010
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

589-31-BZ

APPLICANT – Eric Palatnik, P.C., for Asha Ramnath, owner.

SUBJECT – Application March 5, 2010 – Amendment pursuant (§11-413) to permit the proposed change of use group from UG16 (Gasoline Service Station) to UG16 (Automotive Repair) with accessory used car sales. R3-2 zoning district.

PREMISES AFFECTED – 159-02 Meyer Avenue, intersection of Mayer Avenue, 159th Street, Linden Boulevard, Block 12196, Lot 1, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to permit a change of use from a gasoline service station (Use Group 16) to automotive repair with accessory used car sales (Use Group 16), pursuant to ZR § 11-413; and

WHEREAS, a public hearing was held on this application on June 8, 2010, after due notice by publication in the *City Record*, with continued hearings on July 13, 2010 and August 3, 2010, and then to decision on August 24, 2010; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, and Commissioner Montanez; and WHEREAS, Community Board 12, Queens, recommends disapproval of this application; and

WHEREAS, the site is located on a corner lot bounded by Meyer Avenue to the north, 159th Street to the west, and Linden Boulevard to the south, within an R3-2 zoning district; and

WHEREAS, the subject site has a total lot area of 5,012 sq. ft.; and

WHEREAS, the site is occupied by a vacant one-story building which contains facilities for automotive repairs; and

WHEREAS, the Board has exercised jurisdiction over

the subject site since March 4, 1932 when, under the subject calendar number, the Board granted a variance to permit the construction of a gasoline service station on the site, without a term; and

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

WHEREAS, most recently, the grant was amended on January 12, 1937, to reflect an increase in the size of the zoning lot and to permit certain accessory uses; and

WHEREAS, the applicant now seeks an amendment to permit a change in use from a gasoline service station (Use Group 16) to an automotive repair establishment with accessory used car sales (Use Group 16); and

WHEREAS, pursuant to ZR § 11-413, the Board may grant a request for a change in use; and

WHEREAS, the applicant initially proposed to legalize the currently existing building, which includes enlargements along the Meyer Avenue frontage and Linden Boulevard frontage which are contrary to the previously approved plans; and

WHEREAS, the Board notes that ZR § 11-413 does not authorize the Board to grant an enlargement of the existing building, and that ZR § 11-412, under which the Board is authorized to grant enlargements of buildings that were the subject of a use variance granted prior to December 15, 1961, explicitly states that “no enlargements shall be authorized for a new non-conforming use authorized under the provisions of Section 11-413 (Change of use);” and

WHEREAS, accordingly, the Board directed the applicant to remove the enlarged portions of the building along the Meyer Avenue frontage and the Linden Boulevard frontage; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the enlarged areas of the building have been removed; and

WHEREAS, at hearing, the Board raised concerns as to whether the site was large enough to support accessory used car sales; and

WHEREAS, in response, the applicant submitted revised plans reflecting the reduction in the number of spaces for the display of used cars from three to one, and represents that the inclusion of one space for accessory used car sales is minimal and is requested in order to allow the operator to sell cars on which he has performed repairs; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide additional landscaping and street trees on the site; and (2) limit the signage at the site to a single sign and confirm that the signage complies with C1 district regulations; and

WHEREAS, in response, the applicant submitted revised plans reflecting that landscaping will be provided along the Meyer Avenue and Linden Boulevard frontages, and an additional street tree will be provided along the Meyer Avenue frontage; and

WHEREAS, the revised plans also reflect that excess signage will be removed and the site will be limited to one sign, and the applicant submitted a signage analysis reflecting that the signage on the site complies with C1

MINUTES

district regulations; and

WHEREAS, the Board finds that the proposed use will not impair the essential character or the future use or development of the surrounding area; and

WHEREAS, accordingly, the Board has determined that evidence in the record supports the findings required to be made under ZR § 11-413.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, as adopted on March 4, 1932, to permit the change in use at the premises from a gasoline service station (Use Group 16) to an automotive repair establishment with accessory used car sales (Use Group 16) pursuant to ZR § 11-413, for a period of ten years, to expire on August 24, 2020; *on condition* that any and all use shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received August 17, 2010"- (4) sheets; and *on further condition*:

THAT this grant shall be for a term of ten years, to expire on August 24, 2020;

THAT street trees shall be planted as per the BSA-approved plans;

THAT no more than one car at a time shall be displayed for used car sales on the site;

THAT all signage shall comply with C1 zoning district regulations and be limited to that indicated on the BSA-approved drawings;

THAT the hours of operation shall be: Monday through Friday, from 7:00 a.m. to 6:00 p.m.; and Saturday and Sunday, from 9:00 a.m. to 2:00 p.m.;

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

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

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

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

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

(DOB Application No. 410190378)

Adopted by the Board of Standards and Appeals, August 24, 2010.

736-45-BZ

APPLICANT – Walter T. Gorman, P.E., for Mildel Property Associates, LLC, owner; ExxonMobil Corporation, lessee. SUBJECT – Application May 6, 2010 – Extension of Term (§11-411) for the continued operation of a Gasoline Service Station (*Mobil*) which expires on March 17, 2011. C2-4/R8 zoning district.

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

COMMUNITY BOARD #12M

APPEARANCES –

For Applicant: Arthur Sullivan.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for the continued use of a gasoline service station with accessory uses; and

WHEREAS, a public hearing was held on this application on August 3, 2010 after due notice by publication in *The City Record*, and then to decision on August 24, 2010; and

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

WHEREAS, the site is located on the northeast corner of the intersection at Broadway and 155th Street, within a C2-4 (R8) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 25, 1949 when, under the subject calendar number, the Board granted a variance to permit the premises to be occupied by a gasoline service station, lubritorium, auto laundry, and office; and

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

WHEREAS, most recently, on December 16, 2008, the Board granted an extension of term for 12 years from the expiration of the prior grant, to expire March 17, 2011, and amended the grant to legalize the conversion of the southwest portion of the service building to an accessory convenience store and the installation of a handicap access ramp in front of the convenience store; and

WHEREAS, the applicant now seeks an additional extension of term; and

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

WHEREAS, the Board notes that the New York State Department of Environmental Conservation ("DEC") recorded an active spill at this site, identified as Spill No. 8910288; DEC has issued a separate spill number for 3750 Broadway, identified as Spill No. 0109628, which is an apartment building affected by the release at 3740 Broadway; and

WHEREAS, in response, the applicant represents that a vapor abatement system has been operating at 3750 Broadway since 2002 to remove hydrocarbon vapors in the basement of the apartment building and will remain in operation until DEC determines that Spill Nos. 8910288 and

MINUTES

0109628 can be closed out; and

WHEREAS, at hearing, the Board raised concerns about an open Fire Department violation at the site (No. 11128760M) and related summonses related to dispensing motor fuel without a valid certificate of fitness; and

WHEREAS, in response, the applicant submitted certificates of fitness for each of the three individuals who dispense gasoline at the subject site; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated January 25, 1949, so that as amended this portion of the resolution shall read: “to extend the term for an additional ten years from March 17, 2011, to expire on March 17, 2021; *on condition on condition* that any and all use shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “Received May 6, 2010”-(6) sheets; and *on further condition*:

THAT the term of the grant shall expire on March 17, 2021;

THAT all signage shall comply with C2 zoning district regulations;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 120342076)

Adopted by the Board of Standards and Appeals August 24, 2010.

44-97-BZ

APPLICANT – Stuart A. Klein, Esq., for SDS Leonard, LLC, owner; Millennium Sports, LLC, lessee.

SUBJECT – Applications March 30, 2010 and March 18, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment which expired on October 28, 2007; Amendment of plans in sub-cellar; Waiver of the Rules. C6-2A zoning district.

PREMISES AFFECTED – 78-80 Leonard Street, between Broadway and Church Street, Block 173, Lot 19, 20, Borough of Manhattan.

COMMUNITY BOARD #1M

For Applicant: Abigail Patterson.

ACTION OF THE BOARD – Application granted on

condition.

THE VOTE TO GRANT –

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

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term of a previously granted special permit for a physical culture establishment (PCE), which expired on October 28, 2007; and

WHEREAS, the applicant filed a companion case under BSA Calendar No. 174-00-BZ for an extension of term and an amendment to a previously granted special permit for a PCE which operates in conjunction with the subject site; this application was granted on the date hereof and is addressed within a separate resolution; and

WHEREAS, a public hearing was held on this application on July 13, 2010, after due notice by publication in *The City Record*, with a continued hearing on August 3, 2010, and then to decision on August 24, 2010; 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 1, Manhattan, recommends approval of this application; and

WHEREAS, the PCE is located on the south side of Leonard Street, between Church Street and Broadway, within a C6-2A zoning district; and

WHEREAS, the subject portion of the PCE occupies a total of 4,533 sq. ft. of floor area on the first floor and mezzanine of a six-story mixed-use commercial/residential building, with an additional 10,106 sq. ft. of floor space located in the cellar and sub-cellar; and

WHEREAS, the applicant notes that the site operates in conjunction with the 79 Worth Street site as a single PCE that occupies a total floor space of 19,856 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 28, 1997 when, under the subject calendar number, the Board granted a special permit for a PCE in the subject building for a term of ten years, which expired on October 28, 2007; and

WHEREAS, on May 15, 2001, under BSA Cal. No. 174-00-BZ, the Board granted a special permit to allow the legalization of an addition to the subject PCE at 79 Worth Street, to operate in conjunction with the pre-existing PCE at 78-80 Leonard Street, which expired on October 28, 2007; and

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

WHEREAS, at hearing, the Board question whether there were sound attenuation measures in place to buffer the PCE from the residential units located above the second floor; and

WHEREAS, in response, the applicant submitted revised plans reflecting the sound attenuation measures that have been installed at the site; and

WHEREAS, based upon its review of the record, the

MINUTES

Board finds the requested extension of term is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on October 28, 1997, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from October 28, 2007, to expire on October 28, 2017, *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received July 10, 2010”-(4) sheets; and *on further condition*:

THAT the term of this grant shall expire on October 28, 2017;

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

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

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

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. 101395250)

Adopted by the Board of Standards and Appeals, August 24, 2010.

174-00-BZ

APPLICANT – Stuart A. Klein, Esq., for SDS Leonard, LLC, owner; Millennium Sports, LLC, lessee.

SUBJECT – Applications March 30, 2010 and March 18, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment which expired on October 28, 2007; Amendment of plans in sub-cellar; Waiver of the Rules. C6-2A zoning district.

PREMISES AFFECTED – 79 Worth Street, between Broadway and Church Street, Block 173, Lot 4, Borough of Manhattan.

COMMUNITY BOARD #1M

For Applicant: Abigail Patterson.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term of a previously granted special permit for a physical culture establishment (PCE), which expired on October 28, 2007, and an amendment to legalize interior modifications that are contrary to the previously-approved plans; and

WHEREAS, the applicant filed a companion case under BSA Calendar No. 44-97-BZ for an extension of term of a previously granted special permit for a PCE which operates in conjunction with the subject site; this application was granted on the date hereof and is addressed within a separate resolution; and

WHEREAS, a public hearing was held on this application on July 13, 2010, after due notice by publication in *The City Record* with a continued hearing on August 3, 2010, and then to decision on August 24, 2010; 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 1, Manhattan, recommends approval of this application; and

WHEREAS, the PCE is located on the north side of Worth Street, between Church Street and Broadway, within a C6-2A zoning district; and

WHEREAS, the subject portion of the PCE occupies a total of 5,217 sq. ft. of floor space located in the cellar and sub-cellar of a six-story mixed-use commercial/residential building; and

WHEREAS, the applicant notes that the site operates in conjunction with the 78-80 Leonard Street site as a single PCE that occupies a total floor space of 19,856 sq. ft.; and

WHEREAS, on October 28, 1997, under BSA Cal. No. 44-97-BZ, the Board granted a special permit for a PCE at 78-80 Leonard Street for a term of ten years, which expired on October 28, 2007; and

WHEREAS, on May 15, 2001, under the subject calendar number, the Board granted a special permit to allow the legalization of an addition to the PCE at the subject site, to operate in conjunction with the pre-existing PCE at 78-80 Leonard Street, which expired on October 28, 2007; and

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

WHEREAS, the applicant also requests an amendment to legalize minor changes to the interior layout of the PCE; and

WHEREAS, at hearing, the Board question whether there were sound attenuation measures in place to buffer the PCE from the residential units located above the second floor; and

WHEREAS, in response, the applicant submitted revised plans reflecting the sound attenuation measures that have been installed at the site; 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 *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on May 15, 2001, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from October 28, 2007, to expire on October 28, 2017, and to permit the noted modifications to the approved plans, *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received July 10, 2010”-(4) sheets; and *on further condition*:

MINUTES

THAT the term of this grant shall expire on October 28, 2017;

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

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

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

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. 101395269)

Adopted by the Board of Standards and Appeals, August 24, 2010.

44-99-BZ

APPLICANT – Phillip L. Rampulla, for Michael Bottalico, owner.

SUBJECT – Application April 21, 2010 – Extension of Term for the continued use of an Automotive Repair Shop (UG16) which expired on February 1, 2010; Waiver of the Rules. R3A zoning district.

PREMISES AFFECTED – 194 Brighton Avenue, south side of Brighton Avenue, west of Summer Place, Block 117, Lot 20, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Philip L. Rampulla.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term of a previously granted variance to permit the operation of an automotive repair shop (Use Group 16), and an amendment to extend the term to 15 years; and

WHEREAS, a public hearing was held on this application on June 22, 2010 after due notice by publication in *The City Record*, with a continued hearing on August 3, 2010, and then to decision on August 24, 2010; and

WHEREAS, Community Board 1, Staten Island, recommends approval of this application, with the condition that the applicant install signage indicating that parking is prohibited on the sidewalk; 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 southwest corner of

Brighton Avenue and Sumner Place, within an R3A zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 26, 1959 when, under BSA Cal. No. 455-58-BZ, the Board granted a variance to permit the reconstruction of a gasoline service station accessory building for a lubricatorium, car wash, auto repairs mainly with hand tools, for a term of 15 years; and

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

WHEREAS, on February 1, 2000, under the subject calendar number, the Board granted the reestablishment of the expired variance for an automotive service station, and permitted a change in use from a gasoline service station with auto repairs and washing to repairs only, for a term of five years; and

WHEREAS, most recently, on September 27, 2005, the Board granted an extension of term for an additional five years, which expired on February 1, 2010; and

WHEREAS, the applicant now seeks an additional extension of term; and

WHEREAS, the applicant also requests an amendment to permit the term to be extended from five years to 15 years; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant submitted photographs reflecting that two signs have been installed at the site which prohibit parking on the sidewalk; and

WHEREAS, at hearing, the Board questioned whether the signage at the site complied with C1 district regulations; and

WHEREAS, in response, the applicant submitted a signage analysis reflecting that the signage on the site complies with C1 regulations; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term and amendment to the previously-approved variance 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 February 1, 2000, so that as amended this portion of the resolution shall read: “to extend the term for a period of 15 years from February 1, 2010 to expire February 1, 2025; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT the term of this grant shall expire on February 1, 2025;

THAT all signage shall comply with C1 zoning regulations;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning

MINUTES

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. 520030001)

Adopted by the Board of Standards and Appeals, August 24, 2010.

752-29-BZ

APPLICANT – Jack Gamill, P.E. for Marial Associates of New Jersey, L.P., owner; Bay Ridge Honda, lessee.

SUBJECT – Application May 21, 2010 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of Automotive Repair and Dealership (*Honda*) which expired on April 22, 2010. C4-2 zoning district.

PREMISES AFFECTED – 8801-8809 4th Avenue, Block 6065, Lot 6. Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Frank Sellitto.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for continued hearing.

395-60-BZ

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

SUBJECT – Application June 17, 2010 – Extension of Time to obtain a Certificate of Occupancy for a previously granted Automotive Repair Shop and Convenience Store use which expired on May 17, 2010. R-5 zoning district.

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

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Elizabeth Safien.

ACTION OF THE BOARD – Laid over to September 14, 2010, at 10 A.M., for continued hearing.

914-86-BZ

APPLICANT – Stuart A. Klein, Esq., for Union Temple of Brooklyn, owner; Eastern Athletic, Incorporation, lessee.

SUBJECT – Application March 31, 2010 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a Physical Culture Establishment (*Eastern Athletic*) which expired on May 17, 2009; Extension of Time to obtain a Certificate of Occupancy which expired on November 12, 1998; Amendment to the interior layout and the hours of operation; Waiver of the Rules. R8X zoning district.

PREMISES AFFECTED – 1-19 Eastern Parkway, north side of Eastern Parkway, between Plaza Street, east and Underhill Avenue, Block 1172, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Abigail Patterson.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for continued hearing.

16-92-BZ

APPLICANT – Sheldon Lobel, PC, for High Tech Park, Inc., owner.

SUBJECT – Application April 21, 2009 – Extension of Time to obtain a Certificate of Occupancy; Amendment to expand the variance into portion of the lot fronting on King Street to allow a warehouse and storage use (UG 16) and to facilitate a tax lot subdivision; Extension of Term. R5/C1-3 zoning district.

PREMISES AFFECTED – 72/84 Sullivan Street, aka 115 King Street, north side of Sullivan Street, east of Van Brunt Street, Block 556, Lot Tent.43, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Elisabeth Safian.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for deferred decision.

214-00-BZ

APPLICANT – Harold Weinberg, for Caliv LLC, owner.

SUBJECT – Application October 10, 2008 – Extension of Time to obtain a Certificate of Occupancy for a Special Permit (§73-242) for an eating and drinking establishment; Extension of Term; Amendment to the site plan; and Waiver of the Rules. C3 zoning district.

PREMISES AFFECTED – 2777 Plumb 2nd Street, northeast corner of Harkness Avenue, Block 8841, Lot 500, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Frank Sellitto.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for continued hearing.

124-05-BZ

APPLICANT – Deirdre A. Carson, for The Estate of Armand P. Arman c/o 482 Greenwich, LLC, owner; 482 Greenwich, LLC (Joint Venture Partner), lessee.

SUBJECT – Application June 15, 2010 – Amendment to a Variance (§72-21) for the construction of a mixed-use building to allow an increase in dwelling units, increase in street wall height and reduction of overall building height; Extension of Time to Complete Construction which expires on September 12, 2010. C6-2A zoning district.

PREMISES AFFECTED – 382 Greenwich Street, northwest intersection of Greenwich and Canal Streets, Block 595, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Randall Miner, David Reck, CB #2, Deidra Carson.

For Opposition: John Sutter, Sal Rosenblatt.

MINUTES

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for continued hearing.

APPEALS CALENDAR

120-10-A

APPLICANT – Gary D. Lenhart, RA, for The Breezy Point Cooperative, Inc., owner; Kevin Kennedy, lessee.

SUBJECT – Application June 30, 2010 – Reconstruction and enlargement of an existing single family home not fronting on a legally mapped street, contrary to General City Law Section 36, and upgrade of an existing non-complying private disposal system contrary to Department of Buildings policy. R4 zoning district.

PREMISES AFFECTED – 5 Devon Walk, east side of Devon Walk 21.06’ south of mapped Oceanside Avenue, Block 16350, Lot p/o 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary D. Lenhart.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated June 25, 2010, acting on Department of Buildings Application No. 420176053, reads in pertinent part:

A-1 The Street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, therefore:

A) Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.

B) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code, and

A2- The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings policy;” and

WHEREAS, a public hearing was held on this application on August 24, 2010, after due notice by publication in the *City Record*, and then to closure and decision on the same date; and

WHEREAS, by letter dated July 19, 2010, the Fire Department states that it has reviewed the subject proposal and has no objections provided the following conditions are met: the entire building be fully sprinklered in conformity with the sprinkler provisions of Local Law 10 of 1999 as well as Reference Standard 17-2B of the New York City Building Code and the entire building be provided with interconnected

smoke alarms in accordance with Section 907.2.10 of the NYC Building Code; and

WHEREAS, in response, the applicant submitted a revised plot plan reflecting that the building will be fully sprinklered and will provide interconnected smoke alarms, as requested by the Fire Department; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated June 25, 2010, acting on Department of Buildings Application No. 420176053, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received August 3, 2010”– one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition:*

THAT the home shall be sprinklered and smoke alarms shall be installed in accordance with the BSA-approved plans;

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

THAT 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, August 24, 2010.

43-08-A

APPLICANT – Akerman Senterfitt, for Bell Realty, owner.

SUBJECT – Application February 28, 2008 – Proposed construction in the bed of mapped street contrary to the General City Law Section 35. R2A zoning district.

PREMISES AFFECTED – 144-25 Bayside Avenue, between 29th Road and Bayside Avenue, Block 4786, Lot 41 (tent) 43, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Calvin Wong.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for adjourned hearing.

3-10-A & 4-10-A

APPLICANT – Akerman Senterfitt, for Bell Realty, owner.

SUBJECT – Application January 5, 2010 – Proposed construction in the bed of mapped street contrary to the

MINUTES

General City Law Section 35. R2A zoning district.
PREMISES AFFECTED – 144-25 Bayside Avenue and 29-46 145th Street, between 29th Road and Bayside Avenue, Block 4786, Lot 41 (tent) 48, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Calvin Wong.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 10 A.M., for adjourned continued.

10-10-A

APPLICANT – Law Office of Fredrick A. Becker, for Joseph Durzieh, owner.

SUBJECT – Application January 25, 2010 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior zoning district. R6 zoning district.

PREMISES AFFECTED – 1882 East 12th Street, west side, of East 12th Street, 75’ north of Avenue S, Block 6817, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to September 14, 2010, at 10 A.M., for deferred decision.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING TUESDAY AFTERNOON, AUGUST 24, 2010 1:30 P.M.

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

Absent: Commissioner Ottley-Brown.

ZONING CALENDAR

14-09-BZ

CEQR # 09-BSA-066R

APPLICANT – Eric Palatnik, P.C., for Orenstein Brothers, owner; ExxonMobil Corporation, lessee.

SUBJECT – Application January 26, 2009 – Special Permit (§73-211) to allow an automotive service station with an accessory convenience store and automotive laundry (UG 16B). C2-1/R3-2 zoning district.

PREMISES AFFECTED – 2294 Forest Avenue, Southeast intersection of Forest Avenue and South Avenue, Block 1685, Lot 15, 20, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Absent: Commissioner Ottley-Brown.1

Negative:0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated July 27, 2010, acting on Department of Buildings Application Nos. 510063636 and 510063645, reads in pertinent part:

“ZR 32-10. Proposed automotive service station (Use Group 16B) with accessory uses is not permitted as of right in a C2-1/R3-2 zoning district, and requires a special permit by the New York City Board of Standards and Appeals pursuant to Section 73-211 of the Zoning Resolution;” and

WHEREAS, this is an application for a special permit under ZR § 73-211, on a site previously before the Board, to permit the proposed demolition of the existing automotive service station and the construction of a new automotive service station with an accessory convenience store and automobile laundry (Use Group 16), within a C2-1 (R3-2) zoning district; and

WHEREAS, a public hearing was held on this application on October 27, 2009, after due notice by publication in the *City Record*, with continued hearings on January 12, 2010, March 9, 2010, May 11, 2010 and July 13, 2010, and then to decision on August 24, 2010; and

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

MINUTES

Vice-Chair Collins, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Staten Island, recommends approval of this application, with the following conditions: (1) the northwest corner of the site be developed as a right-turn only lane for northeast bound traffic on South Avenue; (2) that a curb cut not be installed at the northwest corner of Forest Avenue; and (3) new curbs and sidewalks are constructed along the Wemple Street frontage, along with asphalt paving and internal landscaping buffering as necessary; and

WHEREAS, Staten Island Borough President James P. Molinaro recommends approval of this application; and

WHEREAS, the premises is located on a corner through lot bounded by Forest Avenue to the north, South Avenue to the west, and Wemple Street to the south, within a C2-1 (R3-2) zoning district; and

WHEREAS, the subject site has a total lot area of 47,847 sq. ft.; and

WHEREAS, there is currently an automobile service station occupying the Lot 20 portion of the site; and

WHEREAS, on November 14, 1972, under BSA Cal. No. 389-72-BZ, the Board granted a special permit pursuant to ZR § 73-211 to permit the construction of an automotive service station with accessory uses; and

WHEREAS, most recently, on September 25, 1990, the Board amended the grant to permit the change in design and arrangement of the automotive service station, the construction of a new steel canopy over two new self-serve gasoline pump islands, and to alter the existing office and sales area of the accessory building to accommodate an attendant's booth; and

WHEREAS, the applicant now seeks to demolish the existing automotive service station and replace it with an automotive service station with an accessory convenience store, an 864 sq. ft. accessory auto laundry, eight new fuel pumps, and on-site parking for 14 automobiles; and

WHEREAS, the required findings for the special permit for gasoline service stations in certain districts, pursuant to ZR § 73-211, include the following: (1) that the site is located within certain commercial zoning districts in which the longer dimension is at least 375 feet; (2) the site has a minimum lot area of 7,500 sq. ft.; (3) the site has a maximum lot area of 15,000 sq. ft. unless it is located on an arterial highway or a major street; (4) that any facilities for lubrication, minor repairs or washing be located within an enclosed building; (5) that five reservoir parking spaces be provided; (6) that means of ingress and egress are designed so as to cause minimum obstruction; (7) that screening be provided along any rear lot line or side lot line adjoining residential districts; and (8) that signage comply with applicable district regulations; and

WHEREAS, the applicant represents that the C2-1 zoning district that encompasses this site extends to the east for a distance exceeding the 375-ft. minimum required by ZR § 73-211; and

WHEREAS, the site's total lot area of 47,847 sq. ft. meets the minimum lot area requirement of ZR § 73-211;

and

WHEREAS, the applicant provided correspondence from the Department of City Planning stating that Forest Avenue is a "major street"; thus, the maximum lot area requirement of ZR § 73-211 does not apply to the subject site; and

WHEREAS, the applicant states that there are no facilities for lubrication or minor repairs proposed at the subject site, and that the proposed accessory auto laundry consists of a completely enclosed building; and

WHEREAS, at hearing, the Board questioned whether the proposed auto laundry fit within the definition of an "accessory use" under ZR § 12-10; specifically, the Board raised concerns as to whether the proposed auto laundry use is "clearly incidental to, and customarily found in connection with" the principal gasoline station use; and

WHEREAS, in support of the argument that an auto laundry use is customarily found in connection with a gasoline station, the applicant submitted a report on the car wash industry from the Internal Revenue Service (the "IRS Report"), which states that there are approximately 22,000 auto laundries in the United States and Canada, and that 65 percent of these sites include the sale of gasoline, reflecting that these two uses are commonly co-located; and

WHEREAS, as further evidence that an auto laundry use is customarily found in connection with gasoline stations, the applicant submitted a letter from the Exxon Mobil Construction Project Coordinator dated June 15, 2010, stating that it is customary for new automotive service stations to include accessory auto laundries, and that approximately 70 percent of service stations developed from 2001 to 2008 also included accessory auto laundries; and

WHEREAS, the applicant also submitted various examples of auto laundries that operate in conjunction with gasoline stations within New York City, as well as the plans for a number of gasoline stations in Massachusetts, New Hampshire, and Rhode Island which all include self-service fully automated auto laundries for a single car, and with an average size of approximately 1,150 sq. ft.; and

WHEREAS, the applicant states that the proposed self-service, fully automated, 864 sq. ft. auto laundry at the subject site is comparable to the auto laundries associated with the gas stations for which the applicant submitted plans to the Board; and

WHEREAS, as to the incidental nature of the proposed auto laundry use at the site, the applicant submitted a survey from a traffic consultant for a similar facility located at 231 Bay Street, Staten Island, which concludes that on weekdays only eight out of 801 cars that visited the facility (one percent) used the auto laundry during a 7:00 a.m. to 7:00 p.m. period, and on weekends only 18 out of 456 cars that visited the facility (four percent) used the auto laundry from a 10:00 a.m. to 5:00 p.m. period; and

WHEREAS, the survey conducted by the traffic consultant further reflected that the auto laundry was the primary use for only one of the cars that visited the site; and

WHEREAS, the applicant represents that the use of the subject site will be comparable to that of the 231 Bay Street

MINUTES

site, in that the proposed auto laundry will generate a minimal number of trips compared to the trips generated by the gasoline service and convenience store; and

WHEREAS, in further support of the incidental nature of the proposed auto laundry, the applicant submitted a letter from the Exxon Mobil Construction Project Coordinator dated February 19, 2010, stating that the proposed auto laundry is anticipated to account for just seven percent of the total sales at the subject site, while gasoline sales and convenience store sales are expected to account for the remaining 93 percent of total sales; and

WHEREAS, additionally, the IRS Report submitted by the applicant states that many of the sites where auto laundries are located file with the IRS as a gasoline and/or service station, as their auto laundry use serves as a secondary source of business income; and

WHEREAS, the Board notes that the proposed auto laundry accounts for less than two percent of the total lot area of the site (864 sq. ft. out of 47,847 sq. ft.), and that the small size of the proposed auto laundry, both in and of itself and when compared to the total lot area, supports the applicant's claim that the use will be incidental to the primary automotive service station use; and

WHEREAS, the IRS Report submitted by the applicant also distinguishes self-serve auto laundries from full service auto laundries, noting that the former usually consist of single stall drive-in bays that are fully automated and have limited washing options, while the latter usually can service multiple cars simultaneously, are operated by attendants, and provide various washing options; and

WHEREAS, the applicant states that the features of the proposed auto laundry are consistent with the self-serve auto laundries referenced in the IRS Report, and that such self-serve auto laundry uses are more commonly found incidental to a gas station use due to their limited features and capacity, while full service auto laundries are more often primary uses; and

WHEREAS, specifically, the applicant states that the proposed auto laundry can be distinguished from full service auto laundries in that the proposed facility will accommodate a single car at a time, will be fully automated, will not provide attendants or a vacuum station, will offer exterior washing only, will occupy only 864 sq. ft. out of a total lot area of 47,847 sq. ft., and is anticipated to account for only approximately seven percent of total sales at the site; and

WHEREAS, the Board is persuaded by the evidence submitted by the applicant and agrees that the proposed auto laundry is an "accessory use" to the proposed automotive service station in the instant case; and

WHEREAS, in accepting that the proposed auto laundry is an accessory use to the automotive service station, the Board notes that its finding is based on the unique facts related to the physical conditions of the site as presented in the instant application, and that this decision does not have general applicability to any pending or future Board application; and

WHEREAS, as to the requirement under ZR § 73-211

that five reservoir spaces be provided on the site, the applicant submitted a site plan reflecting that five reservoir parking spaces could be accommodated on the site; and

WHEREAS, with respect to ingress and egress from the site, in response to concerns raised by the Community Board and Borough President, the applicant revised its plans to eliminate the westernmost curb cut on Forest Avenue, and have also eliminated the northernmost curb cut on South Avenue and added a curb cut on the west side of Wemple Street; and

WHEREAS, the applicant also submitted a traffic circulation plan and states that the proposed layout of the site and the revised ingress and egress points are designed to ensure that vehicular movement in and from the site can circulate with a minimum of obstruction of streets and sidewalks; and

WHEREAS, as to site screening, the applicant notes this requirement is inapplicable to the subject site because the side and rear lot lines front upon either a C2-1 zoning district or a street; and

WHEREAS, nevertheless, the Board directed the applicant to provide landscaping and screening at the site; and

WHEREAS, in response, the applicant submitted revised plans reflecting a 4'-0" landscape buffer along Wemple Street, the addition of nine street trees along the Forest Avenue, South Avenue, and Wemple Avenue frontages, as well as additional landscaping along the perimeter of the site; and

WHEREAS, as to signage, the applicant initially proposed 210 sq. ft. of total signage, but revised its signage plan during the course of hearings to reduce the proposed signage to a total surface area of 150 sq. ft., in accordance with the provisions of ZR § 73-211; and

WHEREAS, at hearing, the Board directed the applicant to confirm that the signage at the site complies with C2-1 district regulations; and

WHEREAS, in response, the applicant states that the signage on the site complies with C2-1 regulations; and

WHEREAS, accordingly, the applicant has submitted sufficient evidence that the findings set forth at ZR § 73-211 have been met; and

WHEREAS, the applicant states that the proposed accessory convenience store is permitted as of right in a C2-1 zoning district; and

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

WHEREAS, the applicant represents that the convenience store will be located within the enclosed building and will have a retail selling space of less than 2,500 square feet; and

WHEREAS, thus, the Board notes that the

MINUTES

convenience store qualifies as an accessory use pursuant to TPPN # 10/99; and

WHEREAS, the applicant represents that lighting will be designed so as to be directed at the site and away from adjacent uses; and

WHEREAS, at hearing, the Board questioned whether a wetlands permit is required from the Department of Environmental Conservation ("DEC"), due to the site's location; and

WHEREAS, in response, the applicant submitted a letter from the DEC stating that the site is not located within DEC Freshwater Wetlands jurisdiction or Tidal Wetlands jurisdiction, and therefore no wetlands permits are required; and

WHEREAS, the Board notes that the reconstruction of the gasoline service station will not interfere with any pending public improvement project; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-211 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 09-BSA-066R, dated January 26, 2009; and

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

WHEREAS, the Board has determined that the operation of the gasoline service station will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-211 and 73-03, to permit in a C2-1 (R3-2) zoning district, the proposed demolition of the existing automotive service station and the construction of a new automobile service station with an accessory convenience store and accessory automotive laundry (Use

Group 16); *on condition* that all work shall substantially conform to drawings filed with this application marked "Received February 26, 2010"-(2) sheets, "May 10, 2010"-(1) sheet and "June 23, 2010"-(1) sheet; and *on further condition*:

THAT signage shall comply with C2-1 zoning district regulations and be limited to that indicated on the BSA-approved plans;

THAT the accessory automobile laundry shall: (1) have a maximum size of 864 sq. ft.; (2) be a fully automated self-serve facility with no attendants; (3) service no more than one car at a time; and (4) offer exterior washing only;

THAT landscaping shall be provided and maintained as indicated on the BSA-approved plans;

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

THAT the site shall be maintained clean and free of debris and graffiti;

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

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

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

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

Adopted by the Board of Standards and Appeals, August 24, 2010.

327-09-BZ

CEQR #10-BSA-034K

APPLICANT – Sheldon Lobel, P.C., for 255 Butler, LLC, owner.

SUBJECT – Application December 17, 2009 – Special Permit (§73-19) to allow a Use Group 3 charter school (*Summit Academy*) with first floor retail use in an existing warehouse. M1-2 zoning district.

PREMISES AFFECTED – 255 Butler Street, corner lot on Nevins Street between Butler and Baltic Streets, Block 405, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough

MINUTES

Commissioner, dated November 12, 2009, acting on Department of Buildings Application No. 320092662, reads in pertinent part:

“Proposed Use Group 3 school, within an M1-2 zoning district requires a special permit from the Board of Standards and Appeals, pursuant to ZR 73-19;” and

WHEREAS, this is an application under ZR §§ 73-19 and 73-03 to permit, on a site in an M1-2 zoning district, the proposed use and enlargement of an existing four-story building by a Use Group 3 school, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on March 23, 2010, after due notice by publication in the *City Record*, with continued hearings on May 18, 2010, June 22, 2010, and July 27, 2010, and then to decision on August 24, 2010; and

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

WHEREAS, Community Board 6, Brooklyn, recommends disapproval of this application, citing safety concerns with locating a school at this location; and

WHEREAS, the application is brought on behalf of the Summit Academy Charter School (the “School”), a not-for-profit school; and

WHEREAS, the site is located on a corner lot bounded by Baltic Street to the north, Nevins Street to the east, and Butler Street to the south, within an M1-2 zoning district; and

WHEREAS, the site has a lot area of 37,500 sq. ft.; and

WHEREAS, the site is currently occupied by an existing non-complying four-story warehouse building (Use Group 16); and

WHEREAS, the applicant proposes to renovate and enlarge the existing building to allow a Use Group 3 school on the second through fourth floors and on a portion of the first floor, occupying 69,000 sq. ft. of floor area (1.84 FAR), and with partial first floor retail and a total floor area of 96,230 sq. ft. (2.56 FAR); and

WHEREAS, the applicant represents that the proposal meets the requirements of the special permit under ZR § 73-19 to permit a school in an M1-2 zoning district; and

WHEREAS, ZR § 73-19 (a) requires an applicant to demonstrate the inability to obtain a site for the development of a school within the neighborhood to be served and with a size sufficient to meet the programmatic needs of the school within a district where the school is permitted as-of-right; and

WHEREAS, the applicant states that the proposed building will serve an estimated 291 students from sixth through eighth grade in year one, and approximately 45 employees, and is anticipated to eventually reach a full capacity of 600-700 students from sixth through 12th grade, with approximately 65 employees; and

WHEREAS, the applicant states that the School’s program requires a building with at least 77,000 sq. ft. of available space or a vacant site with a minimum lot area of 15,000 sq. ft.; and

WHEREAS, the applicant’s program for the School includes classrooms, art rooms, science rooms, computer labs, a cafeteria, a gymnasium, a library and administrative offices; and

WHEREAS, the applicant states that the School has an additional programmatic need to be located within Community School District 15; and

WHEREAS, the applicant further states that due to the School’s requirements and because the majority of the students are anticipated to live in Community School District 15, it conducted a search for a suitable location for the School in that area; and

WHEREAS, the applicant represents that it conducted a two-year search, during which it specifically evaluated the feasibility of three Brooklyn buildings: 505 Carroll Street; 1260 Atlantic Avenue; and 467 Court Street; and

WHEREAS, the applicant states that, of the three buildings it evaluated, only 467 Carroll Street is located in a zoning district where the School would be permitted as-of-right; and

WHEREAS, the applicant states that 467 Court Street is an existing school that has a maximum floor area of 30,000 sq. ft. and required significant capital improvements, and was therefore determined to be inadequate to meet the School’s needs; and

WHEREAS, the applicant also conducted a search of vacant land within the catchment area of the school, and specifically evaluated three vacant sites: 399 Third Avenue; 363 Fourth Avenue; and 22 Caton Place; and

WHEREAS, the applicant states that 399 Third Avenue is limited by its 9,580 sq. ft. lot area, and would result in floor plates that are too small to meet the School’s programmatic needs; 463 Fourth Avenue was found to be too expensive for the construction of a school; and 22 Caton Place, while within Community District 15, was found to be too distant from the neighborhoods in which the majority of the School’s student body resides, and was also determined to be unaffordable; and

WHEREAS, the applicant maintains that the site search establishes that there is no practical possibility of obtaining a site of adequate size in a nearby zoning district where a school would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (a) are met; and

WHEREAS, ZR § 73-19 (b) requires an applicant to demonstrate that the proposed school is located no more than 400 feet from the boundary of a district in which such a school is permitted as-of-right; and

WHEREAS, the applicant submitted a radius diagram which reflects that the subject site is located directly across from an R6 zoning district, less than 100 feet to the north, where the proposed use would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (b) are met; and

WHEREAS, ZR § 73-19 (c) requires an applicant to demonstrate how it will achieve adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district; and

MINUTES

WHEREAS, the applicant states that an ambient noise survey was conducted at the site, which reflected that adequate separation from noise, traffic and other adverse effects of the surrounding M1-2 zoning district can be provided through the installation of double-glazed windows at the site; accordingly, the applicant states that double-glazed windows will be installed in the subject building, which will maintain an interior noise level below the 45 dBA level stipulated in the CEQR Interior Noise Level guidelines; and

WHEREAS, the applicant represents that adequate separation from noise is further maintained because the surrounding uses include a one-story parking garage to the south, a vacant lot to the east, a large residential development to the northeast, and a vacant lot directly across from the site at the corner of Nevins Street and Baltic Street; and

WHEREAS, the applicant further represents that, although there are two manufacturing uses adjacent to the west of the site and several more directly across from the site along Baltic Street, they consist primarily of one- and two-story manufacturing buildings with specialized businesses that would have a minimal impact on noise and traffic at the site; and

WHEREAS, the Board finds that the conditions surrounding the site and the building's construction will adequately separate the proposed school from noise, traffic and other adverse effects of any of the uses within the surrounding M1-2 zoning district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

WHEREAS, ZR § 73-19 (d) requires an applicant to demonstrate how the movement of traffic through the street on which the school will be located can be controlled so as to protect children traveling to and from the school; and

WHEREAS, the applicant states that busing will be provided only for the sixth grade students, and that it anticipates approximately 70 percent of the students to walk to the School; and

WHEREAS, the applicant submitted a traffic safety survey, which recommends the following measures be taken to ensure the movement of traffic through the surrounding streets can be controlled so as to protect students traveling to and from the School: (1) signs for pedestrian crossing be installed at the intersection approaches for the intersections of Nevins Street at Butler Street and Nevins Street at Baltic Street; (2) crossing guards be provided at four intersections (Nevins Street at Butler Street, Nevins Street at Baltic Street, Bond Street at Butler Street, and Bond Street at Baltic Street) during the AM student arrival time period and the PM student dismissal time period; (3) crosswalks be marked with safety measures at the intersections of Nevins Street at Butler Street and Nevins Street at Baltic Street; and (4) the on-street parking regulation be modified for safer and easier drop-off/pick-up in front of the School for approximately 100 feet along Nevins Street, to reflect "No Parking 7:00 a.m. – 6:00 p.m. Monday through Friday;" and

WHEREAS, the Board referred the application to the School Safety Engineering Office of the Department of

Transportation ("DOT"); and

WHEREAS, by letter dated February 1, 2010, DOT states that it has no objection to the proposed school, and states that it will prepare a school safety map with signs and markings upon the approval and completion of the School; and

WHEREAS, the Board finds that the above-mentioned measures can control traffic so as to protect children going to and from the proposed school; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-19; 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, the proposed project will not interfere with any pending public improvement project; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 10BSA034K, dated August 23, 2010; 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; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Analysis has reviewed the project for potential hazardous materials, air quality and noise impacts; and

WHEREAS, DEP concluded that the proposed project will not result in a significant adverse hazardous materials impact provided that a Remedial Closure Report certified by a professional engineer is submitted to DEP for review and approval; and

WHEREAS, DEP reviewed the applicant's air quality assessment and screening analysis and determined that the proposed project will not result in significant air quality impacts from stationary and mobile sources; and

WHEREAS, based on the results of noise monitoring, a closed window condition with a minimum of 31 dBA window-wall attenuation and central air-conditioning shall be maintained in order to achieve an interior noise level of 45

MINUTES

dBA; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow the proposed operation of a Use Group 3 school, on a site within an M1-2 zoning district; *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 August 23, 2010" - (8) sheets and *on further condition*:

THAT prior to the issuance by DOB of a temporary or permanent Certificate of Occupancy, the applicant or successor shall obtain from DEP a Notice of Satisfaction;

THAT 31 dBA of window-wall noise attenuation with central air-conditioning and a closed window condition shall be provided in the subject building;

THAT crossing guards shall be stationed at the intersections of Nevins Street at Butler Street, Nevins Street at Baltic Street, Bond Street at Butler Street, and Bond Street at Baltic Street, during the AM student arrival time period and the PM student dismissal time period;

THAT prior to obtaining a Permanent Certificate of Occupancy, the following traffic safety measures shall be provided at the site, subject to DOT review and approval: (1) signs for pedestrian crossing at the intersection approaches for the intersections of Nevins Street at Butler Street and Nevins Street at Baltic Street; (2) crosswalks marked with safety measures at the intersections of Nevins Street at Butler Street and Nevins Street at Baltic Street; and (3) modification of the on-street parking regulation in front of the School for approximately 100 feet along Nevins Street, to reflect "No Parking 7:00 a.m. – 6:00 p.m. Monday through Friday;"

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 any change in the use, occupancy, or operator of the school requires review and approval by the Board;

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 plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August

24, 2010.

88-10-BZ

APPLICANT – Dennis D. Dell’Angelo, for Sarah Weiss, owner.

SUBJECT – Application May 13, 2010 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space (§23-141) and side yards (§23-461). R-2 zoning district.

PREMISES AFFECTED – 1327 East 21st Street, south east corner of East 21st Street and Avenue L, Block 7639, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Marc Dell’Angelo.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 29, 2010, acting on Department of Buildings Application No. 320127554, reads:

- “1. Proposed FAR and OSR constitutes an increase in the degree of existing non-compliance contrary to Sec. 23-141 of the NYC Zoning Resolution.
2. Proposed horizontal enlargement provides less than the required side yards contrary to Sec. 23-46 ZR;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a two-family home and its conversion into a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and side yards, contrary to ZR §§ 23-141 and 23-461; and

WHEREAS, a public hearing was held on this application on July 13, 2010 after due notice by publication in *The City Record*, with a continued hearing on July 27, 2010, and then to decision on August 24, 2010; and

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

WHEREAS, Community Board 14, Brooklyn, recommended disapproval of the original version of this application; and

WHEREAS, the subject site is located on the southeast corner of East 21st Street and Avenue L, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft., and is occupied by a single-family home with a floor area of 3,875 sq. ft. (0.78 FAR); and

WHEREAS, the premises is within the boundaries of a

MINUTES

designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 3,875 sq. ft. (0.78 FAR) to 4,855 sq. ft. (0.97 FAR); the maximum permitted floor area is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of approximately 61 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes to provide a side yard with a width of 4'-3¾" along the eastern lot line (a minimum width of 5'-0" is required for each side yard); and

WHEREAS, the applicant initially proposed to build a home with a floor area of 5,096 sq. ft. (1.02 FAR), an open space ratio of 57 percent, and a side yard with a width of 0'-9¾" along the eastern lot line; and

WHEREAS, at the Board's direction, the applicant reduced the size of the home to the current proposal; and

WHEREAS, at hearing, the Board directed the applicant to confirm that the height of the proposed home is compatible with the character of the surrounding area; and

WHEREAS, in response, the applicant submitted photographs of a number of homes within a 200-ft. radius of the subject site, reflecting that the proposed height of approximately 40'-0", which is permitted as-of-right in the underlying zoning district, is comparable to that of the homes in the surrounding neighborhood; 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, the enlargement of a two-family home and its conversion to a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, and side yards, contrary to ZR §§ 23-141 and 23-461; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received July 13, 2010"-(4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,855 sq. ft. (0.97 FAR); an open space ratio of approximately 61 percent; a side yard with

a minimum width of 4'-3¾" along the eastern lot line; and a side yard with a width of 23'-0" along the southern lot line, as illustrated on the BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, August 24, 2010.

98-10-BZ
CEQR #10-BSA-075M

APPLICANT – Stuart A. Klein, Esq., for Geriann Tepedino, owner.

SUBJECT – Application June 1, 2010 – Special Permit (§73-621) to allow a rooftop addition to an existing five-story, mixed-use building, contrary to §111-111. Tribeca Mixed-Use Special District/M1-5 zoning district.

PREMISES AFFECTED – 44 Lisenard Street, between Church Street and Broadway, Block 194, Lot 7503, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Jay Goldstein.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Absent: Commissioner Ottley-Brown.....1
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Superintendent, dated May 19, 2010, acting on Department of Buildings Application No. 104807755, reads in pertinent part:

“Proposed enlargement requires a special permit under ZR Section 73-621 from the Board of Standards and Appeals”; and

WHEREAS, this is an application under ZR §§ 73-621 and 73-03, to permit, in an M1-5 zoning district within the Tribeca Mixed-Use Special Purpose District (Area B1) and the Tribeca East Historic District, the proposed enlargement of an existing five-story mixed-use residential/ commercial condominium building, contrary to ZR § 111-111; and

WHEREAS, a public hearing was held on this

MINUTES

application on August 3, 2010, after due notice by publication in *The City Record*, and then to decision on August 24, 2010; and

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

WHEREAS, Community Board 1, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is located on the south side of Lispenard Street, between Church Street and Broadway, in an M1-5 zoning district within the Tribeca Mixed-Use Special Purpose District Area B1 and the Tribeca East Historic District; and

WHEREAS, the subject site has a total lot area of 2,168 sq. ft., and is occupied by a five-story mixed-use residential/commercial condominium building with a floor area of 9,678 sq. ft. (4.46 FAR); and

WHEREAS, the applicant proposes to construct a one-story rooftop enlargement above the fifth floor; and

WHEREAS, the applicant seeks an increase in the total floor area from 9,678 sq. ft. (4.46 FAR), to 10,611 sq. ft. (4.89 FAR); the maximum floor area permitted is 10,840 sq. ft. (5.0 FAR); and

WHEREAS, the Board notes that ZR § 73-621 permits the enlargement of a building containing a residential use, such as the subject mixed-use commercial/residential building, if the following requirements are met: (1) the proposed FAR does not exceed the maximum permitted FAR by more than ten percent; and (2) the proposed enlargement creates no new non-compliance nor increases the amount or degree of any existing non-compliance; and

WHEREAS, the Board notes that the proposed enlargement complies with the zoning regulations for FAR in the underlying zoning district, and does not create any new non-compliances or increase the degree of any existing non-compliances since it complies with all height and setback, and yard requirements; and

WHEREAS, however, the applicant notes that ZR § 111-111(e) prohibits the enlargement of buildings containing loft dwellings except by special permit of the City Planning Commission pursuant to ZR § 111-51; and

WHEREAS, the applicant states that ZR § 111-51 only applies to buildings “[i]n Area B1, outside of historic districts designated by the Landmarks Preservation Commission;” and

WHEREAS, because ZR § 111-111 prohibits the enlargement of the subject building, which contains loft dwellings, and because the special permit under ZR § 111-51 does not cover the subject site, which is located within the Tribeca East Historic District, the applicant states that the subject application was filed pursuant to ZR § 73-621, to permit the enlargement of the subject building; and

WHEREAS, accordingly, the Board has determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 73-621; and

WHEREAS, the applicant represents that the proposal will not affect the historical integrity of the property; and

WHEREAS, the applicant submitted a Certificate of

Appropriateness from the Landmarks Preservation Commission approving the proposed enlargement, dated April 23, 2008; 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 §§ 73-621 and 73-03.

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 10BSA075M, dated July 23, 2010; 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; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type I Negative Declaration determination under 6 N.Y.C.R.R. Part 617.4 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 §§ 73-621 and 73-03, to permit, in an M1-5 zoning district within the Tribeca Mixed-Use Special Purpose District (Area B1) and the Tribeca East Historic District, the proposed enlargement of an existing five-story mixed-use residential/commercial condominium building, contrary to ZR § 111-111; *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 24, 2010”– (6) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the

MINUTES

building: six stories; a floor area of 10,611 sq. ft. (4.89 FAR); and a total height of 85'-0", as illustrated on the BSA-approved plans;

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

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 substantial construction shall 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 plan(s)/configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, August 24, 2010.

129-07-BZ

APPLICANT – Gerald J. Caliendo, R.A., for Angel Gerasimou, owner.

SUBJECT – Application May 21, 2007 – Variance (§72-21) to allow for a residential use in a manufacturing district, contrary to ZR §42-00. M1-4 zoning district.

PREMISES AFFECTED – 1101 Irving Avenue, corner formed by the north side of Irving Avenue and Decatur Street, Block 3542, Lot 12, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Sandy Anagnostou.

ACTION OF THE BOARD – Laid over to October 19, 2010, at 1:30 P.M., for continued hearing.

130-07-BZ thru 134-07-BZ

APPLICANT – Gerald J. Caliendo, P.A., Angelo Gerasimou, owner.

SUBJECT – Application May 21, 2007 – Variance (§72-21) to allow for a residential use in a manufacturing district, contrary to ZR §42-00. M1-4 zoning district.

PREMISES AFFECTED – 1501, 1503, 1505, 1507 Cooper Avenue, corner formed by west side of Cooper Avenue and Irving Avenue, Block 3542, Lots 1, 95, 94, 93, 92, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Sandy Anagnostou.

ACTION OF THE BOARD – Laid over to October 19, 2010, at 1:30 P.M., for continued hearing.

210-07-BZ

APPLICANT – Eric Palatnik, P.C., for Gasper Nogara, owner.

SUBJECT – Application August 30, 2007 – Variance (§72-21) to allow for a residential use in a manufacturing district, contrary to §42-00. M1-1 zoning district.

PREMISES AFFECTED – 15 Luquer Street, Northern side of Luquer Street between Columbia and Hicks Streets, Block 513, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to October 5, 2010, at 1:30 P.M., for adjourned hearing.

98-08-BZ

APPLICANT – Gerald J. Caliendo, RA, for Property Holdings LLC/Moshik Regev, owner.

SUBJECT – Application April 18, 2008 – Variance (§72-21) to allow a four-story residential building containing four (4) dwelling units, contrary to use regulations (§42-00). M1-1 district.

PREMISES AFFECTED – 583 Franklin Avenue, 160' of the corner of Atlantic Avenue and Franklin Avenue, Block 1199, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Sandy Anagnostou.

ACTION OF THE BOARD – Laid over to October 5, 2010, at 1:30 P.M., for continued hearing.

24-09-BZ

APPLICANT – Sheldon Lobel, PC, for Meadows Park Rehabilitation and Health Care Center, LLC, owners.

SUBJECT – Application February 12, 2009 – Variance to allow the enlargement of a community facility (*Meadow Park Rehabilitation and Health Care Center*), contrary to floor area, lot coverage (§24-11), front yard (§24-34), height (§24-521) and rear yard (§24-382) regulations. R3-2 district.

PREMISES AFFECTED – 78-10 164th Street, Located on the western side of 164th Street between 78th Avenue and 78th Road, Block 6851, Lot 9,11,12,23,24, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 1:30 P.M., for adjourned hearing.

MINUTES

31-09-BZ

APPLICANT – Eric Palatnik, PC, for R & R Auto Repair & Collision, owner.

SUBJECT – Application February 27, 2009 – Special Permit (§11-411, §11-412, §11-413) for re-instatement of previous variance, which expired on November 12, 1990; amendment for a change of use from a gasoline service station (UG16b) to automotive repair establishment and automotive sales (UG16b); enlargement of existing one story structure; and Waiver of the Rules. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 117-04 Sutphin Boulevard, southwest corner of Foch Boulevard, Block 1203, Lot 13, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to October 5, 2010 at 1:30 P.M., for continued hearing.

173-09-BZ

APPLICANT – Law Offices of Howard Goldman LLC, for 839-45 Realty LLC, owner; 839 Broadway Realty LLC, lessee.

SUBJECT – Application May 21, 2009 – Variance (§ZR 72-21) to allow for a four story mixed use building contrary to use regulations. (ZR §32-00, §42-00) C8-2 / M1-1 zoning districts.

PREMISES AFFECTED – 845 Broadway, between Locust and Park Streets, Block 3134, Lot 5, 6, 10, 11, Borough of Brooklyn.

COMMUNITY BOARD #4BK

APPEARANCES –

For Applicant: Chris Wright.

THE VOTE TO CLOSE HEARING –

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

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

Negative:.....0

ACTION OF THE BOARD – Laid over to October 5, 2010, at 1:30 P.M., for decision, hearing closed.

189-09-BZ

APPLICANT – Eric Palatnik, P.C., for Mohamed Adam, owner; Noor Al-Islam Society, lessee.

SUBJECT – Application June 10, 2009 – Variance (§72-21) and waiver to the General City Law Section 35 to permit the legalization of an existing mosque and Sunday school (*Nor Al-Islam Society*), contrary to use and maximum floor area ratio (§§42-00 and 43-12) and construction with the bed of a mapped street. M3-1 zoning district.

PREMISES AFFECTED – 3067 Richmond Terrace, north side of Richmond Terrace, west of Harbor Road, Block 1208, Lot 5, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to October 19, 2010, at 1:30 P.M., for continued hearing.

190-09-A

APPLICANT – Eric Palatnik, P.C., for Mohamed Adam, owner; Noor Al-Islam Society, lessee.

SUBJECT – Application June 10, 2009 – Variance (§72-21) and waiver to the General City Law Section 35 to permit the legalization of an existing mosque and Sunday school (*Nor Al-Islam Society*), contrary to use and maximum floor area ratio (§§42-00 and 43-12) and construction with the bed of a mapped street. M3-1 zoning district.

PREMISES AFFECTED – 3067 Richmond Terrace, north side of Richmond Terrace west of Harbor Road, Block 1208, Lot 5, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to October 19, 2010, at 1:30 P.M., for continued hearing.

297-09-BZ

APPLICANT – Marvin Mitzner, Esq., for 180 Ludlow Development LLC, owner.

SUBJECT – Application October 20, 2009 – Variance (§72-21) to allow for the conversion of a recently constructed commercial building for residential use, contrary to rear yard regulations (§23-47). C4-4A zoning district.

PREMISES AFFECTED – 180 Ludlow Street, east side of Ludlow Street approximately 125' south of East Houston Street, Block 412, Lot 48, 49, 50, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Ian Rasmussen.

THE VOTE TO CLOSE HEARING –

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

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

Negative:.....0

ACTION OF THE BOARD – Laid over to October 26, 2010, at 1:30 P.M., for decision, hearing closed.

305-09-BZ

APPLICANT – Davidoff Malito & Hatcher, LLP, for South Queens Boys & Girls Club, Inc., owner.

SUBJECT – Application November 5, 2009 – Variance (§72-21) to permit the enlargement of an existing community facility building (*South Queens Boys & Girls Club*) contrary to floor area (§33-121) and height (§33-431). C2-2/R5 zoning district.

PREMISES AFFECTED – 110-04 Atlantic Avenue, southeast corner of Atlantic Avenue and 110th Street, Block 9396, Lot 1, Borough of Queens.

COMMUNITY BOARD #9Q

MINUTES

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 1:30 P.M., for adjourned hearing.

21-10-BZ

APPLICANT – Richard Lobel, P.C., for Aquila Realty Company, Incorporated, owner.

SUBJECT – Application February 12, 2010 – Special Permit (§73-243) to legalize an eating and drinking establishment with a drive-through. C1-2/R4A zoning district.

PREMISES AFFECTED – 2801 Roelbling Avenue, aka 1590 Hutchison River Parkway, southeast corner of Roelbling Avenue and Hutchinson River Parkway, Block 5386, Lot 1, Borough of Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Richard Lobel and Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

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

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

Negative:.....0

ACTION OF THE BOARD – Laid over to September 14, 2010, at 1:30 P.M., for decision, hearing closed.

35-10-BZ

APPLICATION – Sheldon Lobel, PC for Yuriy Pirov, owner.

SUBJECT – Application March 22, 2010 – Variance (§72-21) to permit the legalization of an existing synagogue. The proposal is contrary to front yard (§24-34), side yard (§24-35) and rear yard (§24-36). R4 zoning district.

PREMISES AFFECTED – 144-11 77th Avenue, approximately 65 feet east of the northeast corner of Main Street and 77th Avenue. Block 6667, Lot 45, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to October 5, 2010, at 1:30 P.M., for continued hearing.

39-10-BZ

APPLICANT – Eric Palatnik, P.C., for Shiranian Nizi, owner.

SUBJECT – Application March 22, 2010 – Variance (§72-21) for the legalization of a single-family home, contrary to side yards (§23-461). R-5 zoning district.

PREMISES AFFECTED – 2032 East 17th Street, East 17th Street and Avenue T, Block 7321, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to September 21, 2010, at 1:30 P.M., for continued hearing.

47-10-BZ

APPLICANT – Eric Palatnik, P.C., for 2352 Story Avenue Realty Coprporation, owner; Airgas-East, Incorporated, lessee.

SUBJECT – Application April 8, 2010 – Variance (§72-21) to allow for a manufacturing use in a residential district, contrary to ZR §22-00. M1-1/R3-2 zoning district.

PREMISES AFFECTED – 895 Zerega Avenue, aka 2352 Story Avenue, Block 3698, Lot 36, Borough of The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Eric Palatnik, Robert Pauls, E. Doug, Eric Megn and Mike Rao.

ACTION OF THE BOARD – Laid over to October 19, 2010, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.