
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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DOCKET

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192-10-BZ

39-16 College Point Boulevard, West side of College Point Boulevard, at the cross section of Roosevelt Avenue and College Point Boulevard., Block 4962, Lot(s) 4, Borough of **Queens, Community Board: 7**. Special Permit (§73-66) to allow for a waiver of height restrictions around airports. C4-2 zoning district. C4-2 district.

193-10-BZ

35-27 Prince Street, Located on Prince Street directly at the congruence of 36th Road and Prince Street., Block 4971, Lot(s) 8, Borough of **Queens, Community Board: .** Special Permit, ZR 73-66, to allow for a waiver of height restrictions around airports. C4-3 zoning district. district.

194-10-BZ

175 Exeter Street, Exeter Street, North of Oriental Avenue., Block 8737, Lot(s) 17, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for the enlargement of a single family home contrary to floor area §23-141. R3-1 zoning district. R3-1 district.

195-10-BZY

38-28 27th Street, Between 38th and 39th Avenue., Block 387, Lot(s) 31, Borough of **Queens, Community Board: 1**. Extension of time (§11-332) to complete construction of a minor development commenced under the prior zoning. M1-2/R5B zoning district. M1-2/R5B district.

196-10-BZ

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197-10-BZ

59 Fillmore Street, 491.88' West of York Avenue., Block 61, Lot(s) 27,29,31, Borough of **Staten Island, Community Board: 1**. Variance (§72-21) to allow three residential buildings in a manufacturing zone, contrary to use regulations ZR 42-10. M1-1 zoning district. M1-1 district.

198-10-BZ

63 Fillmore Street, 491.88' West of York Avenue., Block 61, Lot(s) 27, 29, 31, Borough of **Staten Island, Community Board: 1**. Variance (§72-21) to allow residential building, contrary to use regulations. M1-1 zoning district. M1-1 district.

199-10-BZ

67 Fillmore Street, 491.88' West of York Avenue., Block 61, Lot(s) 27,29,31, Borough of **Staten Island, Community Board: 1**. Variance (§72-21) to allow residential building, contrary to use regulations. M1-1 zoning district. M1-1 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

NOVEMBER 16, 2010, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 16, 2010, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

433-65-BZ

APPLICANT – Andrea Claire/Peter Hirshman, for 15 West 72 Owner Corporation, owner; Mafair Garage Corporation, lessee.

SUBJECT – Application July 22, 2010 – Extension of Term for transient parking in an accessory parking garage of a multiple dwelling building which expired on June 22, 2010. R8B/R10A zoning district.

PREMISES AFFECTED – 15 West 72nd Street, 200'-2½ west of Central Park West 72nd Street, Block 1125, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #7M

315-90-BZ

APPLICANT – Sheldon Lobel, P.C., for Cumberland Farms, Incorporated, owners.

SUBJECT – Application July 30, 2010 – Pursuant to ZR §11-411 for an Extension of Term of a previously approved variance for the continued operation of a Gasoline Service Station (*Gulf*) with accessory convenience store which expires on March 13, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on March 13, 2003; waiver of the rules.C2-2/R4 zoning district.

PREMISES AFFECTED – 82-06 Astoria Boulevard, southeast corner of Astoria Boulevard and 82nd Street, block 1094, Lot 1, Borough of Queens.

COMMUNITY BOARD #3Q

APPEALS CALENDAR

188-10-A

APPLICANT – Gary Lenhart, for The Breezy Point Cooperative, Inc., owner; Catherine & Kevin Kelly, lessee. SUBJECT – Application October 5, 2010 – Proposed construction not fronting on a mapped street contrary to General City Law Section 36 within an R4 zoning district.

PREMISES AFFECTED – 9 Olive Walk, east side of Olive Walk, 121.6' south of West End Avenue, Block 16350, Lot p/o 400, Borough of Queens.

COMMUNITY BOARD #14Q

NOVEMBER 16, 2010, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 16, 2010, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

107-10-BZ

APPLICANT – Akerman Senterfitt, for Associazione Sacchese D'America, owner.

SUBJECT – Application September 10, 2010 – Variance (§72-21) to allow for a community facility use contrary to side yard regulations ZR 24-35. R2 zoning district.

PREMISES AFFECTED – 12-24 149th Street, between 12th Avenue and Cross Island Parkway, Block 4466, Lot 21, Borough of Queens.

COMMUNITY BOARD #7Q

178-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Rebecca Leshkowitz and Naftuli Leshkowitz, owners.

SUBJECT – Application September 13, 2010 – Special Permit (§73-622) for the In-Part Legalization and enlargement of an existing single family home contrary to floor area and open space (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 943 East 24th Street, east side of East 24th Street, between Avenue I and Avenue J, Block 7588, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #14BK

179-10-BZ

APPLICANT – Sheldon Lobel, P.C., for E & R Duffield Holding Associates, owner; Duffield Fitness Group, LLC d/b/a Planet Fitness, lessee.

SUBJECT – Application September 16, 2010 – Special Permit (§73-36) to legalize the operation of a Physical Culture Establishment (*Planet Fitness*) located within a C6-4 zoning district.

PREMISES AFFECTED – 249 Duffield Street, east side of Duffield Street, approx. 69' north of the corner of Duffield Street and Fulton Street, Block 146, Lot 2, Borough of Brooklyn.

COMMUNITY BOARD #2BK

CALENDAR

182-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, Miriam Kirzner and Martin Kirzner, owners.

SUBJECT – Application September 20, 2010 – Special Permit (§73-622) for the enlargement of a single family home contrary to floor area and open space (ZR §23-141); side yard (ZR §23-461) and less than the required rear yard (ZR §23-47). R-2 zoning district.

PREMISES AFFECTED – 1082 East 23rd Street, west side of East 23rd Street, between Avenue J and Avenue K, Block 7604, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, OCTOBER 26, 2010
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

826-86-BZ, 827-86-BZ and 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 which expired on July 26, 2010 for a Special Permit (§73-11) to allow non-accessory radio towers and transmitting equipment on the roof of a 33-story multiple dwelling (*North Shore Towers*). 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

APPEARANCES –

For Applicant: None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy for non-accessory radio towers and transmitting equipment on the roofs of three existing 33-story residential buildings, which expired on July 26, 2010; and

WHEREAS, a public hearing was held on this application on September 21, 2010, after due notice by publication in *The City Record*, with a continued hearing on October 19, 2010, and then to decision on October 26, 2010; and

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

WHEREAS, the site consists of three identical 33-story buildings; one building is located on the eastern portion of the site and is the subject of BSA Cal. No. 828-86-BZ (“Building 1”); a second building is located on the southern portion of the site and is the subject of BSA Cal. No. 827-86-BZ (“Building 2”), and a third building is located on the western portion of the site and is the subject of BSA Cal. No. 826-86-BZ (“Building 3”); and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 29, 1988 when, under the subject calendar numbers, the Board granted special permits under ZR § 73-30 for the legalization of non-accessory radio towers and transmitting equipment on the roofs of three existing 33-story residential buildings, for a term of ten years each; and

WHEREAS, on March 6, 2001, under the subject calendar numbers, the Board extended the terms of the special permits and granted an amendment to permit the legalization of the 62 existing antennae and the installation of 13 additional antennae on each building, to expire on March 28, 2008; and

WHEREAS, most recently, on January 26, 2010, the Board granted an extension of term, to expire on January 26, 2015, and an extension of time to obtain a temporary certificate of occupancy, which expired on July 26, 2010; and

WHEREAS, the applicant now requests an additional extension of time to obtain a temporary certificate of occupancy; and

WHEREAS, the applicant states that a temporary certificate of occupancy has not been obtained for the subject site due to an outstanding elevator issue requiring certain upgrades which will take approximately six months to implement; and

WHEREAS, at hearing, the Board questioned whether the applicant is in compliance with the Board’s previous grant; specifically with the requirement that a barricade be installed around the area of the rooftop of Building 1 that exceeds the general public standards for emissions, and the condition prohibiting the number of antennas on each building from exceeding 75; and

WHEREAS, in response, the applicant submitted photographs reflecting that the required barrier has been installed on the rooftop of Building 1, and the applicant submitted an affidavit from the principal of Continental Communications, the subject lessee, stating that none of the subject buildings exceed the maximum of 75 antennas permitted on the rooftop; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolutions, dated March 29, 1988, so that as amended this portion of the resolutions shall read: “to grant an extension of time to obtain a temporary certificate of occupancy to October 26, 2011; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT a temporary certificate of occupancy shall be obtained by October 26, 2011;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other

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relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 410070925)

Adopted by the Board of Standards and Appeals, October 26, 2010.

33-99-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, for RCPI Trust, owner; Talla New York Incorporated, lessee.

SUBJECT – Application June 14, 2010 – Extension of Term of a Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*The Sports Club/LA*) which expired on January 11, 2010; waiver of the rules. C5-3(MID) zoning district.

PREMISES AFFECTED – 630 5th Avenue, block bounded by 5th Avenue, East 50th Street and Rockefeller Plaza, Block 1266, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term of a previously granted special permit for a physical culture establishment (PCE), which expired on January 11, 2010; and

WHEREAS, a public hearing was held on this application on October 5, 2010, after due notice by publication in *The City Record*, and then to decision on October 26, 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 5, Manhattan, states that it has no objection to this application; and

WHEREAS, the PCE is located on an entire block frontage bounded by West 51st Street to the North, Fifth Avenue to the east, West 50th Street to the south, and Rockefeller Plaza to the west, in a C5-3 zoning district within the Special Midtown District; and

WHEREAS, the site is occupied by a 38-story commercial building; and

WHEREAS, the PCE use is located on portions of the first floor, second floor, and third floor, and occupies a total of 67,931 sq. ft. of floor area; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 11, 2000 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, to expire on

January 11, 2010; and

WHEREAS, the applicant now seeks to extend the term of the special permit for ten years; 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 *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on January 11, 2000, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from January 11, 2010, to expire on January 11, 2020, *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT the term of this grant shall expire on January 11, 2020;

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. 120335814)

Adopted by the Board of Standards and Appeals, October 26, 2010.

369-05-BZ

APPLICANT – Eric Palatnik, P.C., for Randy Lee, owner.

SUBJECT – Application September 9, 2010 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) to construct a four-story multiple dwelling which expires on October 17, 2010. R3-2(HS) zoning district.

PREMISES AFFECTED – 908 Clove Road, between Broadway and Bement Avenue, Block 323, Lot 42, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a previously granted variance to permit, within an R3-2 (HS) zoning district, the construction of three-story Use Group 2 multiple dwelling for adults age 55 and over, which expired on October 17, 2010; and

WHEREAS, a public hearing was held on this

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application on October 19, 2010, after due notice by publication in *The City Record*, and then to decision on October 26, 2010; and

WHEREAS, the subject site is located on the south side of Clove Road, between Broadway and Bement Avenue, within an R3-2 (HS) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since October 17, 2006 when, under the subject calendar number, the Board granted a variance to permit the proposed construction of a three-story, 25-unit Use Group 2 multiple dwelling for adults age 55 and over; and

WHEREAS, substantial construction was to be completed by October 17, 2010, in accordance with ZR § 72-23; and

WHEREAS, the applicant states that it has constructed the entire foundation for the proposed building and has installed the necessary sanitary and storm sewer lines on Clove Road; and

WHEREAS, however, the applicant states that due to funding delays, additional time is necessary to complete the project; thus, the applicant now requests an extension of time to complete construction; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated October 17, 2006, so that as amended this portion of the resolution shall read: “to grant an extension of the time to complete construction for a term of four years from October 17, 2010, to expire on October 17, 2014; *on condition:*

THAT substantial construction shall be completed by October 17, 2014;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 500740665)

Adopted by the Board of Standards and Appeals, October 26, 2010.

242-09-A

APPLICANT – NYC Board of Standards and Appeals
Owner: One for the Money, LLC.

SUBJECT – Application August 13, 2009 – Dismissal for Lack of Prosecution – Appeal seeking a common law vested right to continue construction commenced under the prior R7-2/C2-5 Zoning district. R7-A/C2-5 Zoning District.

PREMISES AFFECTED – 75 First Avenue and 77-81 First Avenue, corner lot on the west side of First Avenue between

East 4th Street and East 5th Street, Block 446, Lots 29, 30, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, October 26, 2010.

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.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 9, 2010, at 10 A.M., for decision, hearing closed.

1493-61-BZ, 1495-61-BZ, 1497-61-BZ, 1499-61-BZ, 1501-61-BZ

APPLICANT – Bryan Cave LLP, for London Terrace Gardens, owner.

SUBJECT – Application August 12, 2010 – Extension of Term (§11-411) for transient parking in a multiple dwelling building which expired on February 27, 2002; waiver of the rules. R8A zoning district.

PREMISES AFFECTED – 415, 425, 435, 445, 455 West 23rd Street, aka 420, 430, 440, 450, 460 West 24th Street, West 23rd Street, West 24th Street, 125 feet west of Ninth Avenue, 125 feet east of Tenth Avenue. Block 721, Lot 7. Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Frank Chaney.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to

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November 23, 2010, at 10 A.M., for decision, hearing closed.

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: Abigale Patterson.

ACTION OF THE BOARD – Laid over to November 23, 2010, at 10 A.M., for continued hearing.

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

APPEARANCES –

For Applicant: Glen V. Cutrona.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 9, 2010, at 10 A.M., for decision, hearing closed.

26-94-BZ

APPLICANT – Rampulla Associates Architects, for Joseph D'Alessio, owner.

SUBJECT – Application July 29, 2010 – Extension of Term of a Special Permit (§73-242) for a (UG6) eating and drinking establishment which expires on June 6, 2011. C3A (SSRD) zoning district.

PREMISES AFFECTED –141 Mansion Avenue, west of McKee Avenue, Block 5201, Lot 33, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Philip Rampulla.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 9, 2010, at 10 A.M., for decision, hearing closed.

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 and Harold Weinberg.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 16, 2010, at 10 A.M., for decision, hearing closed.

273-03-BZII thru 285-03-BZII

APPLICANT – Sheldon Lobel, P.C. for 211 Building Corporation, owner.

SUBJECT – Application October 6, 2010 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for proposed two-story, semi-detached two-family residences which expired on December 7, 2008; waiver of the rules. R2, R3-2/C1-2 zoning district.

PREMISES AFFECTED – 211-51/49/45/43/41/54/52/50/48/46/44/42 94th Road, a landlocked lot bounded by 94th Avenue, 212th Street, Jamaica Avenue and Hollis Court Boulevard. Block 10546, Lots 92, 93, 95 thru 104, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Elizabeth Safien.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 23, 2010, at 10 A.M., for decision, hearing closed.

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APPEALS CALENDAR

133-10-A

APPLICANT – Deidre Duffy, P.E., for Breezy Point Cooperative, Inc., owner; Brian Murphy, lessee.

SUBJECT – Application July 29, 2010 – Proposed enlargement of an existing single-family home not fronting a legally mapped street contrary to General City Law Section 36. R4 zoning district.

PREMISES AFFECTED – 20 Suffolk Walk, west side of Suffolk Walk, 65.10’ south of West End Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Deidre Duffy.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner dated July 23, 2010 acting on Department of Buildings Application No. 420178060, reads in pertinent part:

“A1– The street giving access to the existing building to be altered and enlarged is not duly placed on the official map of the City of New York, therefore:

A) A Certificate of Occupancy may not be issued as per Art. 3, Sect. 36 of the General City Law;

B) The existing building to be altered and enlarged does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street frontage space contrary to Section 27-291 of the Administrative Code of the City of New York;” and

WHEREAS, a public hearing was held on this application on October 26, 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 September 10, 2010, the Fire Department states that it has no objection to the subject proposal; 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 July 23, 2010, acting on Department of Buildings Application No. 420178060 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 July 29, 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 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, October 26, 2010.

139-10-A

APPLICANT – Gary D. Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Marcella and Joseph Freisen, lessee.

SUBJECT – Application August 9, 2010 – Proposed reconstruction and enlargement of an existing single family home not fronting a mapped street, contrary to General City Law 36, and proposed upgrade of an existing non-conforming private disposal system partially in the bed of a service road, contrary to Buildings Department policy. R4 zoning district.

PREMISES AFFECTED – 29 Roosevelt Walk, east side of Roosevelt Walk 490’ north of Breezy Point Boulevard, 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 Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner dated July 30, 2010, acting on Department of Buildings Application No. 420183376, reads in pertinent part:

“A1– 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) A Certificate of Occupancy may not be issued as per Art. 3, Sect. 36 of the General City Law;

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- 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 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 October 26, 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 September 8, 2010, the Fire Department states that it has no objection to the subject proposal, with the following conditions: (1) the entire building be fully sprinklered in conformance with the sprinkler provisions of Fire Code § 503.8.2, Local Law 10/99, and Reference Standard 17-2B of the Building Code; and (2) interconnected smoke alarms be installed in accordance with Building Code § 907.2.10; 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 July 30, 2010, acting on Department of Buildings Application No. 420183376 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 9, 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 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 building shall be fully sprinklered in accordance with the BSA-approved plans;

THAT interconnected smoke alarms shall be installed in accordance with the BSA-approved plans;

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, October 26, 2010.

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

APPEARANCES –

For Applicant: Philip L. Rampulla.

For Opposition: Anthony Scaduto, Fire Department.

ACTION OF THE BOARD – Laid over November 9, 2010, at 10 A.M., for continued hearing.

237-09-A & 238-09-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP for Safet Dzemovski, owner.

SUBJECT – Application July 31, 2009 – Proposed construction in the bed of a mapped street, contrary to General City Law Section 35. R3X zoning district.

PREMISES AFFECTED – 81 & 85 Archwood Avenue, aka 5219 Amboy Road, east side of Archwood Avenue, 198.25' north of Amboy Road, Block 6321, Lot 152 & 151, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to November 23, 2010, at 10 A.M., for decision, hearing closed.

274-09-A

APPLICANT – Fire Department of New York, for Di Lorenzo Realty, Co, owner; 3920 Merritt Avenue, lessee.

SUBJECT – Application September 25, 2009 – Application to modify Certificate of Occupancy to require automatic wet sprinkler system throughout the entire building.

PREMISES AFFECTED – 3920 Merritt Avenue, aka 3927 Mulvey Avenue, 153' north of Merritt and East 233rd Street, Block 4972, Lot 12, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Anthony Scaduto and John Yakavone, Fire Department.

For Opposition: Joel A. Miele.

THE VOTE TO REOPEN HEARING –

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

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

ACTION OF THE BOARD – Laid over to December 7, 2010, at 10 A.M., for continued hearing.

123-10-A & 124-10-A

APPLICANT – Fire Department of the city of New York
OWNER – DiLorenzo Realty Corporation
LESSESS – Flair Display Incorporated
SUBJECT – Application July 6, 2010 – Application to modify Certificate of Occupancy to require automatic wet sprinkler system throughout the entire building.
PREMISES AFFECTED – 3931, 3927 Mulvey Avenue, 301.75' north of East 233rd Street. Block 4972, Lot 60, 62 Borough of the Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –
For Applicant: Anthony Scaduto and John Yakavone, Fire Department.
For Opposition: Joel A. Miele.
THE VOTE TO REOPEN HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 7, 2010, at 10 A.M., for continued hearing.

113-10-BZY

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Plaza Group 36 LLC, owner.
SUBJECT – Application June 22, 2010 – Extension of time (§11-331) to complete construction of a minor development commenced under the prior R6 zoning. R5B zoning district.
PREMISES AFFECTED – 30-86 36th Street, west side of 36th Street, 152' north of 31st Avenue, Block 650, Lot 80, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –
For Applicant: Todd Dale.
For Opposition: Donnelly Marks.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to November 23, 2010, at 10 A.M., for decision, hearing closed.

116-10-BZY

APPLICANT – Steven Sinacori, Esq., for Akerman Senterfitt, LLP, for 3516 Development LLC, owner.
SUBJECT – Application June 24, 2010 – Extension of time (§11-331) to complete construction of a minor development commenced under the prior R6 zoning district. R6B zoning district.

PREMISES AFFECTED – 35-16 Astoria Boulevard, south side of Astoria Boulevard between 35th and 36th Streets, Block 633, Lots 39 and 140, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –
For Applicant: Calvin Wong.
ACTION OF THE BOARD – Laid over to November 23, 2010, at 10 A.M., for continued hearing.

132-10-A

APPLICANT – Adam Leitman Bailey, P.C., for N & J Associates, owner; Ariza, LLC, lessee.
SUBJECT – Application July 28, 2010 – Appeal challenging Department of Buildings determination not to reinstate revoked permits and approval based on failure to provide owner authorization in accordance with Section 28-104.8.2 of the Administrative Code. C4-6A zoning district.
PREMISES AFFECTED – 105 West 72nd Street, 68 feet west of corner formed by Columbus Avenue and West 72nd Street. Block 1144, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –
For Applicant: Jeffrey R. Metz.
For Opposition: George S. Locker, John Egnatius Beline and Irving Minkew.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 7, 2010, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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REGULAR MEETING TUESDAY AFTERNOON, OCTOBER 26, 2010 1:30 P.M.

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

ZONING CALENDAR

267-09-BZ

CEQR #10-HPD-001X

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
two 10-story mixed-use buildings with residential and
ground floor retail use, contrary to use regulations (§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

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough
Commissioner, dated August 26, 2009, acting on
Department of Buildings Application No. 220016792, reads,
in pertinent part:

“ZR 42-00. Propose residential use (Use Group 2) is
not a permitted use in a manufacturing district;” and

WHEREAS, this is an application under ZR § 72-21, to
permit, within an M1-1 zoning district, the proposed
construction of an eight-story residential building and a ten-
story mixed-use residential/commercial building, contrary to
ZR § 42-00; and

WHEREAS, a public hearing was held on this
application on September 21, 2010 after due notice by
publication in *The City Record*, and then to decision on
October 26, 2010; and

WHEREAS, this application is brought by the City of
New York on behalf of the project sponsor, Phipps Houses, a
not-for-profit entity; and

WHEREAS, Community Board 6, Bronx, recommends
approval of this application; and

WHEREAS, City Council Member Joel Rivera
recommends approval of this application; and

WHEREAS, New York State Assemblyman Michael
Benjamin provided written testimony in support of the
proposal; and

WHEREAS, certain neighborhood residents provided
testimony in opposition to this application, citing concerns with
the environmental impact of the proposed development and the
effect of the proposed development on traffic and parking; and

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

WHEREAS, the subject site is an irregularly-shaped
through lot with approximately 110 feet of frontage along
Lebanon Street, approximately 108 feet of frontage along East
Tremont Avenue, a depth ranging from 210 feet to 250 feet,
and a total lot area of 23,986 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct two
buildings on the subject site: (1) an eight-story residential
building located on the northern portion of the lot (“Building
1”); and (2) a ten-story mixed-use residential/commercial
building on the southern portion of the lot (“Building 2”); and

WHEREAS, the applicant states that Building 1 will be
entirely residential and will provide 51 affordable housing units
(studio, one-bedroom, two-bedroom and three-bedroom), and
Building 2 will provide ground floor commercial use and 54
affordable housing units (studio, one-bedroom and two
bedroom) on floors two through ten; and

WHEREAS, the applicant notes that the subject proposal
is part of a three-building 141-unit affordable housing
development (“Phipps East Tremont Avenue”); and

WHEREAS, the third building that comprises Phipps
East Tremont Avenue will be located directly across East
Tremont Avenue on a site (Block 3909, Lot 8) that is the
subject of a separate application under BSA Cal. No. 268-09-
BZ, which was granted on the same date as the subject
application and is addressed in a separate resolution; and

WHEREAS, since the site is within an M1-1 zoning
district, which does not permit residential development as-of-
right, the requested use waiver is required; and

WHEREAS, the proposed buildings have the following
parameters: a total floor area of 118,279 sq. ft. (4.91 FAR),
including 113,409 sq. ft. of residential floor area (4.73 FAR)
and 4,374 sq. ft. of commercial floor area (0.18 FAR); a
perimeter wall height of 65’-4” for Building 1 and 78’-4” for
Building 2; a total height of 74’-8” for Building 1 and 96’-8”
for Building 2; and a rear yard with a depth of 77’-9”;

WHEREAS, the applicant states that the following are
unique physical conditions which create practical difficulties
and unnecessary hardship in developing the subject site in
conformance with underlying district regulations: (1) the site’s
subsurface contamination and resultant need for remediation;
(2) the site’s high water table; (3) the former use of the site for
mass transit; and (4) the programmatic need to provide a
sufficient number of units for project viability; and

WHEREAS, as to the contamination at the site, the
applicant submitted a Phase II Environmental Site Assessment
which indicated that the soil and groundwater at the site

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contains levels of a variety of heavy metals, semi-volatile compounds and pesticides which must be excavated, handled, transported, and disposed of prior to any development and excavation of the site, in accordance with Department of Environmental Protection (“DEP”) requirements; and

WHEREAS, the applicant submitted a construction estimate indicating that the additional labor and expense associated with the remediation of the site is \$973,000; and

WHEREAS, the applicant states that groundwater at the site was measured approximately ten feet below land surface; and

WHEREAS, the applicant further states that the basements of the proposed buildings will be approximately equal to groundwater level, which means small fluctuations in the groundwater level may lead to the submergence of the slabs; and

WHEREAS, the applicant submitted a report from its environmental consultant which states that, as a result of the high water table, it recommends the use of pile supported mat foundation systems and full waterproofing of the basements; and

WHEREAS, the applicant submitted a construction estimate indicating that the additional labor and expense associated with the high water table is approximately \$2,578,103; and

WHEREAS, as to the history of use of the site, the applicant states that the site was developed with elevated railroad tracks as part of the New York, Westchester and Boston Interurban Railway in 1912; and

WHEREAS, the applicant further states that elevated railroad tracks on the site were abandoned in 1937 and left to decay until the Metropolitan Transportation Authority removed them in 2003; and

WHEREAS, however, the applicant states that a small portion of the elevated trestle still remains at the southern portion of the site and seven concrete platforms remain in the ground, and must be removed in association with the proposed development; and

WHEREAS, the applicant submitted a construction estimate indicating that the additional labor and expense associated with the removal of the existing train trestle is \$664,580 and the additional expense associated with the removal of the remaining construction platforms is \$300,898; and

WHEREAS, the applicant states that the premium construction costs associated with remediation of the subsurface contamination, the high water table, and the removal of the construction platforms total approximately \$4.5 million; and

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

WHEREAS, the applicant states that a use variance is also requested based on Phipps Houses’ programmatic need to provide 105 units of affordable housing; and

WHEREAS, the applicant states that Phipps Houses is seeking financing from City and State financing sources, such

as the NYC Housing Development Corporation (“HDC”) LAMP program, the NYC Department of Housing Preservation and Development (“HPD”) Low Income Rental Program and/or Low Income Housing Tax Credit program, and the NYS Division of Housing and Community Renewal Low Income Housing Tax Credit program, to subsidize the proposed development; and

WHEREAS, the applicant submitted a letter dated December 23, 2009 from HDC and a letter dated June 18, 2010 from the HPD Assistant Commissioner confirming that financing of the proposed development is contemplated by the agencies; and

WHEREAS, as discussed above, there are significant expenses on the site relating to the removal of the existing train trestle and concrete piers, remediation of the subsurface contamination, and mitigation of the high water table, which increases the cost of developing this site and the amount of public funding required; and

WHEREAS, the applicant states that HPD and HDC allocate subsidy funding for affordable housing projects on a per unit basis with maximum subsidy caps per unit, and therefore the redevelopment of the subject site requires a minimum number of units to support the high site work costs and make the project financially feasible; and

WHEREAS, therefore, applicant represents that the minimum number of units required in order to provide a project of sufficient scale to receive the city and state funding required to sustain the proposed development is 105; and

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

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

WHEREAS, however, the applicant analyzed two as-of-right alternatives: a two-story industrial building and a two-story and cellar commercial building; and

WHEREAS, the financial analysis indicates that neither of the as-of-right scenarios are financially viable due to the premium costs associated with the unique conditions of the site, while an as-of-right commercial building would be marginally unviable without the premium costs but would not generate a sufficient return to offset the development costs, rendering it economically unviable; and

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

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

WHEREAS, the applicant submitted a 400-ft. radius diagram and land use map reflecting that the area within the immediate vicinity of the subject site is predominantly residential, and there are a number of five- and six-story

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residential buildings located to the east of the site; and

WHEREAS, the applicant states that an R7-1 zoning district is mapped two blocks to the north of the subject site; and

WHEREAS, the applicant states that Building 1 will be eight stories in height and Building 2 will be ten stories in height, both of which are considerably lower than what is permitted in the adjacent R7-1 zoning district; and

WHEREAS, the applicant further states that larger residential buildings can be found along Lebanon Street and East Tremont Avenue near Morris Park Avenue to the east of the subject site, and that Phipps Houses owns and manages a 731-unit affordable residential complex approximately a half-mile from the site at 1005 East 179th Street; and

WHEREAS, the applicant notes that the proposed ground floor commercial space is consistent with the ground floor context of East Tremont Avenue; and

WHEREAS, in response to the concerns raised by members of the community regarding the environmental impacts of the proposed development, the applicant notes that HPD reviewed the Environmental Assessment Statement ("EAS") prepared for the subject site, and determined that the proposed development will have no significant effect on the quality of the environment; and

WHEREAS, as to the traffic and parking concerns raised by members of the community, the applicant notes that a trip generation analysis was prepared for the project as part of the EAS, which found that the volume of peak vehicular trips expected during peak hours resulted in less than 50 peak hour vehicular trips and that further traffic analysis was not necessary, and the applicant further notes that 11 parking spaces are provided for the subject site notwithstanding the fact that the Zoning Resolution would allow all parking to be waived for the proposed development in an R7-1 or R7X zoning district under ZR § 25-25(e); and

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

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

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

WHEREAS, the applicant states that the proposed buildings are of the minimum size that can be feasibly developed for their proposed use as affordable housing; and

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

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

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

WHEREAS, HPD 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. 10HPD001X, dated December 21, 2009; and

WHEREAS, the EAS documents that the proposed housing development 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 concurs with HPD 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 adopts the Negative Declaration issued by HPD August 11, 2010 prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an M1-1 zoning district, the proposed construction of an eight-story residential building and a ten-story mixed-use residential/commercial building, contrary to ZR § 42-00, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 29, 2010" – (24) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be: a total floor area of 118,279 sq. ft. (4.91 FAR), including 113,409 sq. ft. of residential floor area (4.73 FAR) and 4,374 sq. ft. of commercial floor area (0.18 FAR); a perimeter wall height of 65'-4" for Building 1 and 78'-4" for Building 2; a total height of 74'-8" for Building 1 and 96'-8" for Building 2; and a rear yard with a depth of 77'-9"; and 11 parking spaces;

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

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

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

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

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

Adopted by the Board of Standards and Appeals,

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October 26, 2010.

268-09-BZ

CEQR #10-HPD-001X

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 two 10-story mixed-use buildings with residential and ground floor retail use, contrary to use regulations (§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

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated August 21, 2009, acting on Department of Buildings Application No. 220016783, reads, in pertinent part:

“ZR 42-00. Propose residential use (Use Group 2) is not a permitted use in a manufacturing district;” and

WHEREAS, this is an application under ZR § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a ten-story mixed-use residential/commercial building, contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on September 21, 2010 after due notice by publication in *The City Record*, and then to decision on October 26, 2010; and

WHEREAS, this application is brought by the City of New York on behalf of the project sponsor, Phipps Houses, a not-for-profit entity; and

WHEREAS, Community Board 6, Bronx, recommends approval of this application; and

WHEREAS, City Council Member Joel Rivera recommends approval of this application; and

WHEREAS, New York State Assemblyman Michael Benjamin provided written testimony in support of the proposal; and

WHEREAS, certain neighborhood residents provided testimony in opposition to this application, citing concerns with the environmental impact of the proposed development and the effect of the proposed development on traffic and parking; and

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

WHEREAS, the subject site is an irregularly-shaped through lot with approximately 80 feet of frontage along East 178th Street, approximately 84 feet of frontage along East Tremont Avenue, a depth ranging from approximately 111 feet to 143 feet, and a total lot area of 10,024 sq. ft.; and

WHEREAS, the site is currently vacant; and

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

WHEREAS, the applicant proposes to provide ground floor commercial use with 36 affordable housing units (one-bedroom, two bedroom and three-bedroom) on floors two through ten; and

WHEREAS, the applicant notes that the subject proposal is part of a three-building 141-unit affordable housing development (“Phipps East Tremont Avenue”); and

WHEREAS, the other two buildings that comprise Phipps East Tremont Avenue will be located directly across East Tremont Avenue on a site (Block 4007, Lot 15) that is the subject of a separate application under BSA Cal. No. 267-09-BZ, which was granted on the same date as the subject application and is addressed in a separate resolution; and

WHEREAS, since the site is within an M1-1 zoning district, which does not permit residential development as-of-right, the requested use waiver is required; and

WHEREAS, the proposed building has the following parameters: a total floor area of 49,662 sq. ft. (4.95 FAR), including 46,592 sq. ft. of residential floor area (4.64 FAR) and 3,070 sq. ft. of commercial floor area (0.31 FAR); a perimeter wall height of 78’-4”; a total height of 96’-8”; and a rear yard with a depth of 46’-9”; and

WHEREAS, the applicant states that the following are unique physical conditions which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: (1) the site’s irregular shape; (2) the site’s subsurface contamination and resultant need for remediation; (3) the site’s high water table; (4) the former use of the site for mass transit; and (5) the programmatic need to provide a sufficient number of units for project viability; and

WHEREAS, as to the site’s shape, the applicant states that the site is an irregularly-shaped through lot, which would constrain the site’s as-of-right development potential as a manufacturing or commercial development would have difficulty complying with certain zoning regulations at the site, such as the rear yard equivalent, parking, and loading berth requirements; and

WHEREAS, as to the contamination at the site, the applicant submitted a Phase II Environmental Site Assessment which indicated that the soil and groundwater at the site contains levels of a variety of heavy metals, semi-volatile compounds and pesticides which must be excavated, handled, transported, and disposed of prior to any development and excavation of the site, in accordance with Department of Environmental Protection (“DEP”) requirements; and

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WHEREAS, the applicant submitted a construction estimate indicating that the additional labor and expense associated with the remediation of the site is \$406,597; and

WHEREAS, the applicant states that groundwater at the site was measured approximately ten feet below land surface; and

WHEREAS, the applicant further states that the basement of the proposed building will be approximately equal to groundwater level, which means small fluctuations in the groundwater level may lead to the submergence of the slab; and

WHEREAS, the applicant submitted a report from its environmental consultant which states that, as a result of the high water table, it recommends the use of a pile supported mat foundation system and full waterproofing of the basement; and

WHEREAS, the applicant submitted a construction estimate indicating that the additional labor and expense associated with the high water table is approximately \$1,077,336; and

WHEREAS, as to the history of use of the site, the applicant states that the site was developed with elevated railroad tracks as part of the New York, Westchester and Boston Interurban Railway in 1912; and

WHEREAS, the applicant further states that elevated railroad tracks on the site were abandoned in 1937 and left to decay until the Metropolitan Transportation Authority removed them in 2003; and

WHEREAS, however, the applicant states that two concrete construction platforms, remnants of the mass transit infrastructure, remain on the site and must be removed in association with the proposed development; and

WHEREAS, the applicant submitted a construction estimate indicating that the additional labor and expense associated with the removal of the remaining construction platforms is \$125,739; and

WHEREAS, the applicant states that the premium construction costs associated with remediation of the subsurface contamination, the high water table, and the removal of the construction platforms total approximately \$1.6 million; and

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

WHEREAS, the applicant states that a use variance is also requested based on Phipps Houses' programmatic need to provide 36 units of affordable housing; and

WHEREAS, the applicant states that Phipps Houses is seeking financing from City and State financing sources, such as the NYC Housing Development Corporation ("HDC") LAMP program, the NYC Department of Housing Preservation and Development ("HPD") Low Income Rental Program and/or Low Income Housing Tax Credit program, and the NYS Division of Housing and Community Renewal Low Income Housing Tax Credit program, to subsidize the proposed development; and

WHEREAS, the applicant submitted a letter dated December 23, 2009 from HDC and a letter dated June 18, 2010

from the HPD Assistant Commissioner confirming that financing of the proposed development is contemplated by the agencies; and

WHEREAS, as discussed above, there are significant expenses on the site relating to the removal of the concrete piers, remediation of the subsurface contamination, and mitigation of the high water table, which increases the cost of developing this site and the amount of public funding required; and

WHEREAS, the applicant states that HPD and HDC allocate subsidy funding for affordable housing projects on a per unit basis with maximum subsidy caps per unit, and therefore the redevelopment of the subject site requires a minimum number of units to support the high site work costs and make the project financially feasible; and

WHEREAS, therefore, applicant represents that the minimum number of units required in order to provide a project of sufficient scale to receive the city and state funding required to sustain the proposed development is 36; and

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

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

WHEREAS, however, the applicant analyzed two as-of-right alternatives: a two-story industrial building and a two-story and cellar commercial building; and

WHEREAS, the financial analysis indicates that neither of the as-of-right scenarios are financially viable due to the premium costs associated with the unique conditions of the site, while an as-of-right commercial building would be marginally unviable without the premium costs but would not generate a sufficient return to offset the development costs, rendering it economically unviable; and

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

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

WHEREAS, the applicant submitted a 400-ft. radius diagram and land use map reflecting that the area within the immediate vicinity of the subject site is predominantly residential, and there are a number of five- and six-story residential buildings located to the east of the site; and

WHEREAS, the applicant states that an R7-1 zoning district is mapped two blocks to the north of the subject site; and

WHEREAS, the applicant states that the proposed building will be ten stories in height, which is considerably lower than what is permitted in the adjacent R7-1 zoning district; and

WHEREAS, the applicant further states that larger

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residential buildings can be found along Lebanon Street and East Tremont Avenue near Morris Park Avenue to the east of the subject site, and that Phipps Houses owns and manages a 731-unit affordable residential complex approximately a half-mile from the site at 1005 East 179th Street; and

WHEREAS, the applicant notes that the proposed ground floor commercial space is consistent with the ground floor context of East Tremont Avenue; and

WHEREAS, in response to the concerns raised by members of the community regarding the environmental impacts of the proposed development, the applicant notes that HPD reviewed the Environmental Assessment Statement (“EAS”) prepared for the subject site, and determined that the proposed development will have no significant effect on the quality of the environment; and

WHEREAS, as to the traffic and parking concerns raised by members of the community, the applicant notes that a trip generation analysis was prepared for the project as part of the EAS, which found that the volume of peak vehicular trips expected during peak hours resulted in less than 50 peak hour vehicular trips and that further traffic analysis was not necessary, and the applicant further notes that 11 parking spaces are provided for the subject site notwithstanding the fact that the Zoning Resolution allows all parking to be waived for the proposed development under ZR § 25-25(e); and

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

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

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

WHEREAS, the applicant states that the proposed building is of the minimum size that can be feasibly developed for its proposed use as affordable housing; and

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

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

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

WHEREAS, HPD 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. 10HPD001X, dated December 21, 2009; and

WHEREAS, the EAS documents that the proposed housing development 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 concurs with HPD 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 adopts the Negative Declaration issued by HPD August 11, 2010 prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an M1-1 zoning district, the proposed construction of a ten-story mixed-use residential/commercial building, contrary to ZR § 42-00, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received July 29, 2010” – (16) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be: ten stories; a total floor area of 49,662 sq. ft. (4.95 FAR), including 46,592 sq. ft. of residential floor area (4.64 FAR) and 3,070 sq. ft. of commercial floor area (0.31 FAR); a perimeter wall height of 78’-4”; a total height of 96’-8”; a rear yard with a depth of 46’-9”; and 11 parking spaces;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, October 26, 2010.

297-09-BZ
CEQR #10-BSA-027M

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

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Ludlow Street approximately 125' south of East Houston Street, Block 412, Lot 48, 49, 50, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, October 26, 2010.

108-10-BZ

CEQR #10-BSA-080Q

APPLICANT – Roberts Organization (LRNC Myrtle Avenue NY LLC) for 5432-50 Myrtle Avenue LLC, owner. SUBJECT – Application June 11, 2010 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (*Lucille Roberts*) in an existing two-story building. C4-3 zoning district.

PREMISES AFFECTED – 54-32 Myrtle Avenue, intersection of Myrtle Avenue and Madison Street, Block 3544, Lot 27, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated September 28, 2010, acting on Department of Buildings Application No. 420010632, reads in pertinent part:

“Physical culture establishment in zoning district C4-3 not permitted as per ZR Section 32-10.

Therefore must be referred to Board of Standards and Appeals for special permit;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C4-3 zoning district, the legalization of a physical culture establishment (PCE) at the first floor and cellar of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on October 5, 2010, after due notice by publication in *The City Record*, and then to decision on October 26, 2010; and

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

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

WHEREAS, the subject site is located on the northeast

corner of Myrtle Avenue and Madison Street, within a C4-3 zoning district; and

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

WHEREAS, the PCE will occupy 2,650 sq. ft. of floor area on a portion of the first floor, with an additional 14,000 sq. ft. of floor space located in the cellar; and

WHEREAS, the PCE is operated as Lucille Roberts; and

WHEREAS, the proposed hours of operation are: Monday through Thursday, 9:00 a.m. to 9:00 p.m.; Friday, from 9:00 a.m. to 8:00 p.m.; and Saturday and Sunday, from 9:00 a.m. to 2:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

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

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

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

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

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

WHEREAS, the Board notes that the site was the subject of a prior grant for the operation of a PCE, under BSA Cal. No. 173-98-BZ, which expired on September 30, 2008; and

WHEREAS, the Board further notes that the applicant elected to file for a new special permit at the site under the subject calendar number; and

WHEREAS, accordingly, the Board has determined that the term of the grant shall be reduced for the period of time between September 30, 2008 and the date of this grant; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No.10BSA080Q, dated June 7, 2010; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous

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Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-3 zoning district, the legalization of a physical culture establishment at the first floor and cellar of a two-story commercial building, contrary to ZR § 32-10; on condition that all work shall substantially conform to drawings filed with this application marked "Received June 11, 2010"-(2) sheets, "September 21, 2010"-(1) sheet and "October 6, 2010"-(3) sheets; and on further condition:

THAT the term of this grant shall expire on September 30, 2018;

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

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

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

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, October 26, 2010.

126-10-BZ
CEQR #11-BSA-002K

APPLICANT – Sheldon Lobel, P.C., for Canarsie Plaza, LLC, owner; 1720 Hutchinson River Parkway, lessee.
SUBJECT – Application July 8, 2010 – Special Permit (§73-36) to allow the operation of the proposed physical culture

establishment (*Canarsie Fitness*) in a two-story building under construction. M1-1 zoning district.

PREMISES AFFECTED – 856 Remsen Avenue, south side of Remsen Avenue, Bock 7920, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 27, 2010, acting on Department of Buildings Application No. 302220166, reads in pertinent part:

“Proposed physical culture establishment is not permitted in an M1-1 zoning district and requires special permit by the Board of Standards and Appeals as per Zoning Resolution section 73-36;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within an M1-1 zoning district, the operation of a physical culture establishment (PCE) at the first floor and second floor of a two-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on October 5, 2010, after due notice by publication in *The City Record*, and then to decision on October 26, 2010; and

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of Remsen Avenue, between Avenue D and Ditmas Avenue, within an M1-1 zoning district; and

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

WHEREAS, the PCE will occupy a total floor area of 12,897 sq. ft. on the first floor and second floor; and

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

WHEREAS, the proposed hours of operation are: Monday through Thursday, 24 hours per day; Friday, from 12:00 a.m. to 10:00 p.m.; and Saturday and Sunday, from 7:00 a.m. to 7:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

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

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and

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operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; 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. 11-BSA-002K, dated August 26, 2010; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, the operation of a physical culture establishment at the first and second floor of a two-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received September 1, 2010"- (6) sheets; and *on further condition*:

THAT the term of this grant shall expire on October 26, 2020;

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

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

THAT the above conditions shall appear on the

Certificate of Occupancy;

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, October 26, 2010.

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.

ACTION OF THE BOARD – Laid over to November 23, 2010, at 1:30 P.M., for deferred decision.

251-09-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Bethany House of Worship Incorporated, owner.

SUBJECT – Application August 28, 2009 – Variance (§72-21) to permit the development of a two-story community facility (*Bethany Church*). The proposal is contrary to §§ 24-34 (front yard) and 25-31 (parking). R3-2 zoning district.

PREMISES AFFECTED – 130-34 Hawtree Creek Road, West side of Hawtree Creek Road, 249.93 feet north of 133rd Avenue. Block 11727, Lot 58, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to November 23, 2010, at 1:30 P.M., for decision, hearing closed.

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305-09-BZ

APPLICANT – Davidoff Malito & Hutcher, 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

APPEARANCES –

For Applicant: Howard Weiss, Joseph Cursio and Carroll Simon.

ACTION OF THE BOARD – Laid over to November 23, 2010, at 1:30 P.M., for continued hearing.

6-10-BZ

APPLICANT – Sheldon Lobel, P.C. for 2147 Mill Avenue, LLC, owner.

SUBJECT – Application January 8, 2010 – Variance (§72-21) to allow for legalization of an enlargement of a commercial building, contrary to §22-00. R2 zoning district.

PREMISES AFFECTED – 2147 Mill Avenue, Northeast side of Mill Avenue between Avenue U and Strickland Avenue. Block 8463, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Richard Lobel and Robert Pauls.

ACTION OF THE BOARD – Laid over to December 7, 2010, at 1:30 P.M., for continued hearing.

29-10-BZ

APPLICANT – Sheldon Lobel, P.C., for R.A.S. Associates, owner; Mojave Restaurant, lessee.

SUBJECT – Application March 4, 2010 – Special Permit (§73-52) to allow for an outdoor eating and drinking establishment within a residential district. C1-2 and R5 zoning districts.

PREMISES AFFECTED – 22-32/36 31st Street, Ditmas Boulevard and 23rd Avenue, Block 844, Lot 49, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Irving Minkin.

ACTION OF THE BOARD – Laid over to December 7, 2010 at 1:30 P.M., for continued hearing.

43-10-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Cammastro Corp./Maria Pilato, owner; First Club One LLC/Spiro Tsadilas, lessee.

SUBJECT – Application March 30, 2010 – Special Permit (§73-244) to allow an eating and drinking establishment without restrictions and no limitation on entertainment and dancing. C2-2/R5 zoning district.

PREMISES AFFECTED – 23-70 Steinway Street, west side of Steinway Street, 17.65’ north of Astoria Boulevard North, Block 803, Lot 75, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Sandy Anagnostou.

ACTION OF THE BOARD – Laid over to November 23, 2010 at 1:30 P.M., for continued hearing.

68-10-BZ

APPLICANT – Eric Palatnik, P.C., for CDI Lefferts Boulevard, LLC, owner.

SUBJECT – Application May 4, 2010 – Variance (§72-21) to allow a commercial building, contrary to use regulations (§22-00). R5 zoning district.

PREMISES AFFECTED – 80-15 Lefferts Boulevard, between Kew Gardens Road and Talbot Street, Block 3354, Lot 38, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Eric Palatnik and Robert Pauls.

ACTION OF THE BOARD – Laid over to December 7, 2010, at 1:30 P.M., for continued hearing.

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 §§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

APPEARANCES –

For Applicant: Francis R. Angelino, Gwen Pier and Arthur Pier.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to November 23, 2010, at 1:30 P.M., for decision, hearing closed.

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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 (§23-142) and court regulations (§§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 Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jordon Most.

ACTION OF THE BOARD – Laid over November 9, 2010, at 1:30 P.M., for adjourned hearing.

101-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Crosby 54 LLC, owners.

SUBJECT – Application June 4, 2010 – Variance (§72-21) to allow a commercial use below the floor level of the second story, contrary to use (§42-14(D)(2)(b)). M1-5B zoning district.

PREMISES AFFECTED – 54 Crosby Street, west side of Crosby Street between Broome and Spring Streets, Block 483, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jordan Most, Robert Pauls and Steve Wygoda.

For Opposition: Howard Zipser, Lawrence F. Flick and Robert Von Anckew.

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

117-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Rhond Mizrahi and Garv Mizrahi, owners.

SUBJECT – Application June 28, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to side yards (§23-461) and less than the required rear yard (§23-47). R5 zoning district.

PREMISES AFFECTED – 1954 East 14th Street, west side of East 14th Street, between Avenue S and Avenue T, Block 7292, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 16, 2010, at 1:30 P.M., for decision, hearing

closed.

134-10-BZ

APPLICANT – Stuart Beckerman, for Passiv House Xperimental LLC, owner.

SUBJECT – Application July 30, 2010 – Variance (§72-21) to allow a residential building, contrary to floor area (§43-12), height (§43-43), and use (§42-10) regulations. M1-1 zoning district.

PREMISES AFFECTED – 107 Union Street, north side of Union Street, between Van Brunt and Columbia Streets, Block 335, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Weil Weisbard, Herman Galvis and Robert Pauls.

ACTION OF THE BOARD – Laid over to December 7, 2010, at 1:30 P.M., for continued hearing.

148-10-BZ

APPLICANT – Eric Palatnik, P.C., for Giselle E. Salamon, owner.

SUBJECT – Application August 11, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141), side yards (§23-461) and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 1559 East 29th Street, Between Avenue P and Kings Highway. Block 7690, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 23, 2010, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.