
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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

Volume 95, No. 51

December 22, 2010

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

Commissioners

Jeffrey Mulligan, *Executive Director*

Becca Kelly, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

CONTENTS

DOCKET	812
CALENDAR of January 25, 2011	
Morning	813
Afternoon	814

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, December 14, 2010**

Morning Calendar815

Affecting Calendar Numbers:

914-86-BZ	1-19 Eastern Parkway, Brooklyn
66-90-BZ	43-03 Astoria Boulevard, Queens
315-90-BZ	82-06 Astoria Boulevard, Queens
55-45-BZ	51 Kingsland Avenue, Brooklyn
245-49-BZ	78-09 Springfield Boulevard, Queens
827-55-BZ	245-20 139 th Avenue, Queens
758-84-BZ	1444 Clove Road, Staten Island
93-00-BZ	19 West 44 th Street, Manhattan
128-00-BZ	10/16 Wall Street, Manhattan
175-05-BZ	18-24 Luquer Street, Brooklyn
118-10-BZ	2102/24 Avenue Z, aka 2609/15 East 21 st Street, Brooklyn
135-10-A	107 Beach 216 th Street, Queens
114-10-BZY & 115-10-BZY	26-58 & 26-60 30 th Street, Queens
125-10-A	346 Ovington Avenue, Brooklyn
212-10-A	96 Greenwich Street, Manhattan

Afternoon Calendar819

Affecting Calendar Numbers:

173-09-BZ	845 Broadway, Brooklyn
92-10-BZ	39 East 10 th Street, Manhattan
103-10-BZ	1036 East 24 th Street, Brooklyn
104-10-BZ	5002 19 th Avenue, Brooklyn
122-10-BZ	163 West 78 th Street, Manhattan
190-10-BZ	250-10 Grand Central Parkway, Queens
277-07-BZ	165-35 North Conduit Avenue, Queens
98-08-BZ	583 Franklin Avenue, Brooklyn
31-09-BZ	117-04 Sutphin Boulevard, Queens
43-10-BZ	23-70 Steinway Street, Queens
45-10-BZ	1413-1429 Edward L. Grant Highway, Bronx
55-10-BZ	40-22 Main Street, Queens
101-10-BZ	54 Crosby Street, Manhattan
107-10-BZ	12-24 149 th Street, Queens
128-10-BZ	147-58 77 th Road, Queens
140-10-BZ thru 147-10-BZ	160, 170, 181, 191 Edinboro Road, Staten Island
178-10-BZ	943 East 24 th Street, Brooklyn
179-10-BZ	249 Duffield Street, Brooklyn
182-10-BZ	1082 East 23 rd Street, Brooklyn
183-10-BZ	873 Belmont Avenue, aka 240 Milford Street, Brooklyn

Correction835

Affecting Calendar Numbers:

1493-61-BZ thru 1501-61-BZ	415, 425, 435, 445, 455 West 23 rd Street, Manhattan
-------------------------------	---

DOCKET

New Case Filed Up to December 14, 2010

225-10-A

97 Saint Marks Avenue, Saint Marks Avenue 392 feet west of the intersection of Saint Marks Avenue and Carlton Avenue., Block 1143, Lot(s) 80, Borough of **Brooklyn, Community Board: 8**. Appeal for vested rights to continue development under the prior zoning. R6B district.

226-10-BZ

405/42 Hudson Street, Southwest corner of Hudson and Leroy Streets., Block 601, Lot(s) 58, Borough of **Manhattan, Community Board: 2**. Special Permit (73-36) to allow the legalization of a physical culture establishment. M1-5 district.

227-10-BZ

204-12 Northern Boulevard, Northern Boulevard and 204th Street., Block 7301, Lot(s) 11, Borough of **Queens, Community Board: 11**. Special Permit (11-411) to reopen, extend the term and amend the previous approval. C2-2/R3-2 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

JANUARY 25, 2011, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, January 25, 2011, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

95-97-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 700 West 178th Street Associates, LLC, owner; TSI Forest Hills LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application October 14, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a physical culture establishment (*New York Sports Club*) which expired on May 1, 2007; Waiver of the Rules. C4-5X zoning district.

PREMISES AFFECTED – 69-47 Austin Street, northwest corner of Austin Street and 70th Avenue, Block 3237, Lot 30, Borough of Queens.

COMMUNITY BOARD #6Q

215-06-BZ

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

SUBJECT – Application October 20, 2010 – Extension of Term of an existing Gasoline Service Station (Gulf) with accessory convenience store which expires on July 24, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on June 17, 2010; Waiver of the Rules. C1-2/R4 zoning district.

PREMISES AFFECTED – 202-06 Hillside Avenue, southeast corner of Hillside Avenue and 202nd Street, Block 10496, Lot 52, Borough of Queens.

COMMUNITY BOARD #12Q

APPEALS CALENDAR

155-80-A

APPLICANT – Raymond J. Irrera, for Dr. Jerold Blatt, owner.

SUBJECT – Application August 11, 2010 – Extension of term to allow the continued operation of a medical office (UG4) in an existing frame structure which expired on June 10, 2000. Extension of time to obtain a Certificate of Occupancy. Waiver of the Rules. R2A Zoning District.

PREMISES AFFECTED – 75-72 185th Street aka 184-17 Union Turnpike, northwest corner of 185th Street and Union Turnpike, Block 7201, Lot 42, Borough of Queens.

COMMUNITY BOARD #8Q

264-08-A

APPLICANT – Slater & Beckerman, LLP, for Wilshire Hospitality, LLC, owner.

SUBJECT – Application December 22, 2010 – Extension of time to complete construction and obtain a Certificate of Occupancy for a previously-granted vesting application under the Common Law which expired on February 3, 2011.

M1-3D previous zoning districts; M1-3/R7X current zoning district.

PREMISES AFFECTED – 29-23 40th Road, aka 30-02 40th Avenue, through lot, bounded by 40th Road to the south, 40th Avenue to the north, 29th Street to the west, Northern Boulevard to the east. Block 402, Lots 12 & 35. Borough of Queens.

COMMUNITY BOARD #1Q

154-10-A

APPLICANT – Isaac Rosenberg, for Congregation Yetev Lev D'Satmar, owner.

SUBJECT – Application August 25, 2010 – Appeal challenging a determination by Department of Buildings not to reinstate revoked permits and approvals based on failure to provide owner authorization in accordance with §28-104.8.2 of the Administrative Code. R7-1 Zoning District.

PREMISES AFFECTED – 540 Bedford Avenue, between Ross and Wilson Streets, Block 2181, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #1BK

201-10-BZY

APPLICANT - Law Offices of Marvin B. Mitzner, for LES Realty Group LLC, owner.

SUBJECT – Application October 29, 2010 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior C6-1 zoning district. C4-4A zoning district.

PREMISES AFFECTED – 180 Orchard Street, through lot extending from Orchard Street to Ludlow Street. Block 412, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #3M

CALENDAR

JANUARY 25, 2011, 2010, 1:30 P.M.

Jeff Mulligan, Executive Director

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, January 25, 2011, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

187-07-BZ

APPLICANT – Dennis D. Dell’Angelo, for Michael Modatsos, owner.

SUBJECT – Application August 1, 2010 – Variance (§72-21) to permit the increase in the size of the zoning lot for an existing eating and drinking establishment contrary to the prior approval (in BSA Cal. No. 63-96-BZ). The proposal is contrary to the residential use regulations (§22-00). R3X zoning district.

PREMISES AFFECTED – 4677 Hylan Boulevard, North side of Hylan Boulevard 175.03 feet west of Arden Avenue. Block 5408, Lot 43, Borough of Staten Island.

COMMUNITY BOARD #12Q

186-10-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for NYU Hospital Center, owner; New York University, lessee.

SUBJECT – Application September 28, 2010 – Variance (§72-21) to allow for the construction of two community facility buildings (NYU Langone Medical Center) contrary to rear yard (§24-36), rear yard equivalent (§24-382), height and setback (§24-522), rear yard setback (§24-552), tower coverage (§24-54), maximum permitted parking (§13-132), minimum square footage per parking space (§25-62), and curb cut requirements (§13-142). R8 zoning district.

PREMISES AFFECTED – 400-424 East 34th Street, aka 522-566 & 596-600 First Avenue, East 34th Street, Franklin D. Roosevelt Drive, East 30th Street, and First Avenue, Block 962, Lot 80, 108 & 1001-1107, Borough of Manhattan.

COMMUNITY BOARD #6M

217-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Elizabeth Kopolovich & Harry Kopolovich, owner.

SUBJECT – Application November 15, 2010 – Special Permit (§73-622) for the enlargement of an existing single home contrary to floor area and lot coverage (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 4009 Bedford Avenue, Bedford Avenue between Avenue S and Avenue T. Block 7304, Lot 82, Borough of Brooklyn.

COMMUNITY BOARD #15BK

MINUTES

**REGULAR MEETING
TUESDAY MORNING, DECEMBER 14, 2010
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

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 – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term of a previously granted special permit for a physical culture establishment (PCE), which expired on May 17, 2009, an extension of time to obtain a certificate of occupancy, which expired on November 12, 1998, and an amendment to reflect modifications to the previously-approved plans and for a change in the hours of operation; and

WHEREAS, a public hearing was held on this application on July 13, 2010, after due notice by publication in *The City Record*, with continued hearings on August 24, 2010, September 21, 2010 and November 23, 2010, and then to decision on December 14, 2010; and

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

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

WHEREAS, the PCE is located on the north side of Eastern Parkway between Underhill Avenue and Plaza Street

East, within an R8X zoning district; and

WHEREAS, the site is occupied by an 11-story mixed-use commercial/community facility building at 17 Eastern Parkway which consists of the PCE on the upper floors and a synagogue on the lower floors (the “Temple Building”), and a 15-story condominium building at 1 Eastern Parkway (the “Condo Building”); and

WHEREAS, the applicant notes that, at the time of the original Board grant, 1 Eastern Parkway and 17 Eastern Parkway were located within the same zoning and tax lot (Block 1172, Lot 6); 1 Eastern Parkway was formerly a parking lot for Union Temple (the “Temple”), which is the synagogue that occupies a portion of 17 Eastern Parkway, but it was subsequently subdivided into current Lot 12, and is now occupied by the Condo Building; and

WHEREAS, the applicant further notes that Lot 12 has been further subdivided into individual tax lots for all of the condominium units; the Temple owns one of the first floor condominium units (Lot 1101) (the “Temple Condo Unit”), which is occupied by Temple offices as well as the proposed PCE entrance; and

WHEREAS, the PCE is operated as Eastern Athletic; and

WHEREAS, the PCE use is currently located on the sixth through 11th floors and occupies a total floor area of 27,325 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 19, 1987 when, under the subject calendar number, the Board granted a special permit for a PCE in the subject building for a term of ten years, which expired on May 19, 2007; and

WHEREAS, most recently, the Board granted an extension of term, which expired on May 19, 2007; a condition of the grant was that a certificate of occupancy be obtained by November 12, 1998; and

WHEREAS, the applicant now seeks an extension of the term of the special permit for an additional ten years, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant also seeks an amendment to allow minor changes to the interior layout, and to allow for the expansion of certain portions of the PCE to improve services to club members and the flow of foot traffic, and to enable the Temple and the PCE to operate with greater independence and privacy; and

WHEREAS, specifically, the applicant proposes to increase the floor area of the PCE by approximately 5,300 sq. ft., for a total floor area of 32,624 sq. ft., in order to accommodate the installation of: (1) two new elevators in the Temple Building to access the PCE; (2) a new entrance with a reception area, elevator lobby, lounge, office, bathroom and kitchen within the Temple Condo Unit; (3) new fire escapes to provide an additional means of egress from the Temple Building; (4) a new mezzanine on the ninth floor of the PCE; and (5) the addition of an extended elevator bulkhead and hoistway at the 11th floor; and

WHEREAS, the applicant represents that the requested modifications are necessary because the configuration of the Temple Building and its outdated building elements present a hardship to the operation of both the Temple

MINUTES

and the PCE; and

WHEREAS, the applicant states that the existing elevator in the southeast portion of the Temple Building has presented an ongoing problem for the PCE because the maintenance of the elevator is the Temple's responsibility under the terms of the lease agreement with the PCE, and the elevator has not been maintained in good working condition with any consistency; and

WHEREAS, the applicant further states that the one elevator serves the entire building and must be shared by Temple attendees and PCE members alike, and when the elevator is broken PCE members must climb several flights of stairs to reach the PCE; and

WHEREAS, the applicant further states that, in addition to problems with the elevator, the entrance at the east side of the site is currently shared by both the Temple and the PCE, resulting in interference with Temple services by PCE members entering and exiting the PCE, and presenting security problems for the Temple; and

WHEREAS, the applicant represents that the proposed amendment to the plans solves these problems by providing an additional means of ingress and egress to the PCE through the addition of a new entrance, as well as providing two new elevators for the PCE; and

WHEREAS, the applicant further represents that these modifications will allow for greater separation of the two functions and greater overall building security; and

WHEREAS, the applicant also requests an amendment to change the hours of operation of the PCE; and

WHEREAS, the approved hours of operation of the PCE are Sunday through Thursday, from 7:00 a.m. to 12:00 a.m.; Friday, from 7:00 a.m. to 6:00 p.m.; and Saturday, from 1:00 p.m. to 12:00 a.m.; and

WHEREAS, the applicant proposes to increase the hours of operation to: Saturday through Thursday, from 6:00 a.m. to 12:00 a.m.; and Friday, from 6:00 a.m. to 11:30 p.m.; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on May 19, 1987, so that as amended this portion of the resolution shall read: "to extend the term for a period of ten years from May 19, 2007, to expire on May 19, 2017; to extend the time to obtain a certificate of occupancy for one year from the date of this grant, to expire on December 14, 2011; and to permit the noted modifications to the approved plans and the change in the hours of operation, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 7, 2010"- (8) sheets; and *on further condition*:

THAT the term of this grant shall expire on May 19, 2017;

THAT the hours of operation shall be: Saturday through Thursday, from 6:00 a.m. to 12:00 a.m.; and Friday, from 6:00 a.m. to 11:30 p.m.;

THAT the above conditions shall be listed on the

certificate of occupancy;

THAT a new certificate of occupancy shall be obtained by December 14, 2011;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 302190108)

Adopted by the Board of Standards and Appeals, December 14, 2010.

66-90-BZ

APPLICANT – Eric Palatnik, P.C., for A.H.G. Realty Corporation, owner.

SUBJECT – Application October 5, 2010 – Extension of Term for a UG16 Gasoline Service Station (*Mobil*) which expired on October 1, 2010. R5 zoning district.

PREMISES AFFECTED – 43-03 Astoria Boulevard, northeast corner of 43rd Street, Block 780, Lot 18, Borough of Queens.

COMMUNITY BOARD #1Q

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 January 25, 2011, at 10 A.M., for decision, hearing closed.

315-90-BZ

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

SUBJECT – Application July 30, 2010 – Extension of Term (§11-411) 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

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

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

MINUTES

Negative:.....0
ACTION OF THE BOARD – Laid over to January 25, 2011, at 10 A.M., for decision, hearing closed.

55-45-BZ

APPLICANT – Walter C. Maffei, AIA, for Donato Passarella, owner.

SUBJECT – Application August 31, 2010 – Extension of Term (§11-411) for an existing Gasoline Service Station (*Spirit*) which expired on February 27, 2009; Extension of Time to obtain a Certificate of Occupancy which expired on May 2, 2001; waiver of the rules. C2-4/R6B zoning district.

PREMISES AFFECTED – 51 Kingsland Avenue, Woodpoint Road, Frost Street, Block 2866, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Walter C. Maffei.

ACTION OF THE BOARD – Laid over to February 1, 2011, at 10 A.M., for decision, hearing closed.

245-49-BZ

APPLICANT – Simons & Wright LLC, for Alley Pond Owners Corporation, owner.

SUBJECT – Application October 7, 2010 – Amendment of previous approval to legalize the conversion of one residential unit to be used as an accessory residential management office and elimination of the term; waiver of the rules. R3-2 zoning district.

PREMISES AFFECTED – 78-09 Springfield Boulevard, east side of Springfield between Kingsbury Avenue and Union Turnpike, Block 7842, Lot 33, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Emily Simons.

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 January 25, 2011, at 10 A.M., for decision, hearing closed.

827-55-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products, Incorporated, owner.

SUBJECT – Application October 5, 2010 – Extension of Term (§11-411) for the continued operation of a Gasoline Service Station (*British Petroleum*) which expires on January 31, 2011. R3-2 zoning district.

PREMISES AFFECTED – 245-20 139th Avenue, southwest corner of Conduit Avenue, Block 13614, Lot 23, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to January 25, 2011, at 10 A.M., for continued hearing.

758-84-BZ

APPLICANT – David L. Businelli, R.A., for Richard Sgarato, owner.

SUBJECT – Application August 30, 2010 – Extension of Term of a variance (§72-21) to legalize a two-story and cellar commercial building contrary to use regulations. R3X zoning district.

PREMISES AFFECTED – 1444 Clove Road, 61' North of intersection Tioga Street and Clove Road, Block 658, Lot 20, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: David L. Businelli.

ACTION OF THE BOARD – Laid over to January 25, 2011, at 10 A.M., for decision, hearing closed.

93-00-BZ

APPLICANT – The Law Office of Fredrick A. Becker for Green 19 W44 Owner, LLC, owner; TSI West 44 LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application August 25, 2010 – Extension of Term of a Special Permit (§73-36) for the continued operation of a physical culture establishment (*New York Sports Club*) which expired on July 25, 2010. C6-4.5 (MID) zoning district.

PREMISES AFFECTED – 19 West 44th Street, northerly side of West 44th Street, 150' west of 5th Avenue, Block 1260, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to February 1, 2011, at 10 A.M., for continued hearing.

128-00-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for CRP/Capstone 14W Property Owner, LLC c/o CB Richard Ellis, owner; Equinox Wall Street Incorporated, lessee.

SUBJECT – Application September 30, 2010 – Extension of Term of a Special Permit (ZR §73-36) for the continued operation of a physical culture establishment (*Equinox*) which expired on September 12, 2010. C5-5(LM) zoning district.

PREMISES AFFECTED – 10/16 Wall Street, north west corner of Wall Street and Nassau Street, Block 46, Lot 9, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to January 25, 2011, at 10 A.M., for continued hearing.

MINUTES

175-05-BZ

APPLICANT – Eric Palatnik, P.C., for Athanasios Amaxus, 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 with accessory parking which expires on January 9, 2011. M1-1 zoning district.

PREMISES AFFECTED – 18-24 Luquer Street, between Hicks Street and Columbia Street, Block 520, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #16BK

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to January 25, 2011, at 10 A.M., for deferred decision.

118-10-BZ

APPLICANT – NYC Board of Standards and Appeals

OWNER – Arkady Nabatov

SUBJECT – Application June 28, 2010 – Dismissal for lack of prosecution – Special Permit (§11-411) to re-establish a variance for an auto-related use. R4 zoning district.

PREMISES AFFECTED – 2102/24 Avenue Z aka 2609/15 East 21st Street, Block 7441, Lot 371, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to February 8, 2010, at 1:30 P.M., for new BZ public hearing.

APPEALS CALENDAR

135-10-A

APPLICANT – Zygmunt Staszewski, for Breezy Point Cooperative Incorporated, owner; James McDonough, lessee.

SUBJECT – Application August 3, 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 – 107 Beach 216th Street, east side of Beach 216th Street, 120’ south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Michael Harley.

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 22, 2010, acting on Department of Buildings Application No. 420193141, reads in pertinent part:

“A1 – The street giving access to the existing building to be altered is not duly placed on the map of the City of New York.; and

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

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

WHEREAS, a public hearing was held on this application on December 14, 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 October 11, 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 22, 2010, acting on Department of Buildings Application No. 420193141, 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 December 6, 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, December 14, 2010.

MINUTES

114-10-BZY and 115-10-BZY

APPLICANT – Nikolaos Sellas, for HX Holdings LLC, owner.

SUBJECT – Application June 24, 2010 – Extension of time (§11-331) to complete construction of a major development commenced under the prior R6 zoning district. R6B zoning district

PREMISES AFFECTED – 26-58 & 26-60 30th Street, north side of 30th Street, 540.78’ and 565.80’ west of corner formed by Astoria Boulevard and 30th Street, Block 597, Lots 223 and 124, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Nikolaos Sellas.

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 January 11, 2011, at 10 A.M., for decision, hearing closed.

125-10-A

APPLICANT – Simons & Wright, for Sofia Gazgalis & Spyridon Gazgalis, owner.

SUBJECT – Application July 8, 2010 – Appeal challenging the interpretation of ZR §23-22 as it applies to the required density factor for existing buildings in an R5B zoning district.

PREMISES AFFECTED – 346 Ovington Avenue, between 4th and 3rd Avenues, Block 5891, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to January 25, 2011, at 10 A.M., for continued hearing.

212-10-A

APPLICANT – NYC Board of Standards and Appeals

OWNER – Augustus H. Lawrence and Company

SUBJECT – Application November 5, 2010 – Dismissal for lack of Jurisdiction – Appeal of a determination by the Department of Buildings that an engineer's report violated Building Code Section 28.211.1. (False Statements). C6-9M Zoning District.

PREMISES AFFECTED – 96 Greenwich Street, west side of Greenwich Street between Rector Street and Carlisle Street, Block 53, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to January 11, 2011, at 10 A.M., for dismissal calendar.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING

TUESDAY AFTERNOON, DECEMBER 14, 2010

1:30 P.M.

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

ZONING CALENDAR

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 – 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 May 13, 2009, acting on Department of Buildings Application No. 320003474, reads in pertinent part:

“The proposed residential dwellings in C8-2 and M1-1 districts are contrary to sections 32-00 and 42-00 of the Zoning Resolution and require a variance from the Board of Standards and Appeals;” and

WHEREAS, this is an application under ZR § 72-21, to permit the conversion of an existing three-story building to a four-story mixed-use commercial/residential building with 33 affordable housing units, contrary to ZR §§ 32-00 and 42-00; and

WHEREAS, a public hearing was held on this application on April 13, 2010 after due notice by publication in the *City Record*, with continued hearings on May 25, 2010, August 3, 2010 and August 24, 2010, and then to decision on December 14, 2010; and

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

MINUTES

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

WHEREAS, the site is located on the northeast corner of Park Street and Broadway, partially within a C8-2 zoning district and partially within an M1-1 zoning district; and

WHEREAS, the subject zoning lot has 150 feet of frontage on Broadway, a depth of 100 feet and a total lot area of 15,000 sq. ft., with 10,000 sq. ft. of lot area located within the C8-2 zoning district and 5,000 sq. ft. of lot area located within the M1-1 zoning district; and

WHEREAS, the site is currently occupied by an approximately 30,000 sq. ft. three-story commercial building and a parking lot; and

WHEREAS, the applicant proposes to alter the building and provide a one-story enlargement to create a four-story mixed-use commercial/residential building with retail located on the first floor and 33 affordable housing units located above; and

WHEREAS, the proposed building has a floor area of 49,920 sq. ft. (3.0 FAR) and a height of 45 feet; and

WHEREAS, the applicant originally proposed to construct a seven-story mixed-use commercial/residential building with a floor area of 60,000 sq. ft. (4.0 FAR), and a total height of 80 feet; and

WHEREAS, the applicant's initial proposal contemplated the demolition of the existing building, the removal of the foundations, and the construction of a new building on the site; and

WHEREAS, during the course of the hearing process, the applicant revised the project at the Board's direction to reflect the current proposal; and

WHEREAS, the applicant represents that the following are unique physical conditions inherent to the subject building and zoning lot, which create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: (1) the history of development of the site; and (2) the existing building is obsolete for conforming uses; and

WHEREAS, as to the history of development of the site, the applicant states that a conforming use is infeasible at the subject site due to the building's age and years of uncoordinated alterations; and

WHEREAS, the applicant states that the subject building was originally constructed approximately 100 years ago as three separate residential buildings, and that the building has since undergone alterations on each floor to accommodate various commercial uses; and

WHEREAS, the applicant states that the history of development of the site has resulted in the functional obsolescence of the building; and

WHEREAS, the applicant submitted a report from an engineering firm which supported the applicant's representation that the following problems contribute to the functional obsolescence of the building: (i) the building was originally three separate structures; (ii) each floor has a different layout and demising walls; (iii) portions of the lower floors connect to portions of the upper floors in a random pattern; (iv) the floor plate elevations on the second and third

floor are inconsistent; (v) the floor plate for the third floor is smaller than the floor plates for the first and second floors; (vi) there is no central core, and there is a random pattern of stairs connecting the floors; (vii) there is inconsistent construction and support columns between the original buildings; (viii) there are open floor plates from prior retail uses as well as remnants of old tenements in portions of the upper floors; (ix) the amount of space converted to retail and the amount that retains the old tenement improvements varies on each floor; and (x) there are clear signs of age deterioration throughout the building; and

WHEREAS, as to the uniqueness of this condition, the applicant states that the subject site is the only site in the surrounding area with the above-mentioned physical constraints; and

WHEREAS, the applicant states that any conforming use would require floor plates with consistent elevations, size and column spacing, as well as a central core and lobby; and

WHEREAS, therefore, due to the physical condition of the building the applicant states that there is no practical conforming reuse of the site; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

WHEREAS, the applicant provided a financial analysis for (1) use of the existing building for an as-of-right commercial use; and (2) the proposed four-story mixed-use commercial/residential building; and

WHEREAS, the study concluded that the as-of-right scenario would not result in a reasonable return, but that the proposal would realize a reasonable return; and

WHEREAS, as further evidence of the infeasibility of commercial use throughout the site, the applicant submitted a letter from a real estate broker stating that the building has been marketed for commercial uses for more than two-and-one-half years, and while ground floor retail may be viable, they were unable to find tenants for the upper two floors; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

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

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

WHEREAS, the applicant submitted a 400-ft. radius diagram which reflects that the majority of the subject block is dominated by residential uses, and that there are residential uses located in the surrounding area in every direction from the subject site; and

WHEREAS, specifically, the applicant states that more than 60 percent of the lots within the surrounding area are developed with residential uses; and

WHEREAS, as to bulk, the applicant states that the

MINUTES

height of the proposed building is lower than many developments in the area; and

WHEREAS, the 400-ft. radius diagram submitted by the applicant reflects that there is a seven-story affordable housing development directly across from the site on Broadway, and there are multiple four-story residential buildings on the subject block facing Locust Street and on the subject block frontage on the corner of Broadway and Locust Street; and

WHEREAS, the applicant states that there is also a large affordable housing presence in the area and that the subject site will provide a different and complementary type of affordable housing in the community; and

WHEREAS, the applicant further states that the portion of the building that will extend 50 feet into the M1-1 zoning district on Park Street will be set back 26'-6" from the sidewalk at the fourth floor, in order to maintain the three-story context of the midblock; and

WHEREAS, accordingly, the Board finds that the variance, if granted, will not negatively impact the character of the neighborhood; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the unique physical characteristics of the site; and

WHEREAS, as noted above, the applicant originally proposed to construct a seven-story mixed-use commercial/residential building with a floor area of 60,000 sq. ft. (4.0 FAR), and a total height of 80 feet, which would have required demolishing the existing building and constructing a new building on the site; and

WHEREAS, at the Board's direction, the applicant revised the project to reflect the current proposal; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 09BSA111K dated December 7, 2010; and

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

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

WHEREAS, DEP accepts the December 2009 ground-penetrating radar report and determined there would not be any

hazardous materials impacts due to the proposal; and

WHEREAS, a site survey and air permits search was conducted for the active industrial/manufacturing facilities for the area within a 400-ft. radius of the proposed project; and

WHEREAS, DEP reviewed the applicant's air quality screening analysis and determined that no significant impacts are anticipated from industrial/manufacturing uses on the proposed project; and

WHEREAS, DEP reviewed the applicant's stationary source screening analysis conducted for the HVAC system and determined that no significant impacts from the proposed project are anticipated; and

WHEREAS, DEP reviewed the results of noise monitoring and determined that a minimum of 40 dBA of window-wall noise attenuation and an alternate means of ventilation shall be maintained in order to achieve an interior noise level of 45 dBA; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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 the conversion of an existing three-story building to a four-story mixed-use commercial/residential building, contrary to ZR §§ 32-00 and 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 27, 2010" – eight (8) sheets and "Received November 5, 2010" – one (1) sheet; and *on further condition*;

THAT the following shall be the bulk parameters of the building: a floor area of 44,920 sq. ft. (3.0 FAR); a total height of 45 feet; and up to 33 affordable housing units, as illustrated on the BSA-approved plans;

THAT the bulk of the building shall comply with R6A zoning district regulations;

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

THAT a minimum of 40 dBA of window-wall noise attenuation and an alternate means of ventilation shall be provided in the subject building;

THAT substantial construction shall be completed pursuant to ZR § 72-23;

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

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

THAT the Department of Buildings must ensure

MINUTES

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

Adopted by the Board of Standards and Appeals, December 14, 2010.

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: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Superintendent, dated April 20, 2010, acting on Department of Buildings Application No. 110364089, reads in pertinent part:

- “1. ZR 23-87 – Proposed elevator enclosure is not permitted obstruction in the court. It is contrary to ZR 23-87.
2. ZR 54-31 – Elevator enclosure is floor area as per ZR 12-10. Existing floor area of the building is exceeding the maximum allowable per ZR 23-142. Therefore proposed elevator enclosure is increasing the degree of non-compliance. It is contrary to ZR 54-31.
3. ZR 54-31 – Existing open space is contrary to ZR 23-142. Proposed elevator enclosure is increasing the degree of non-compliance. It is contrary to ZR 54-31.
4. ZR 23-852 – Dimension of inner court is contrary to ZR 23-852. Proposed elevator enclosure creates two inner court recesses with dimension contrary to ZR 23-852.
5. ZR 23-851 and ZR 54-31 – Existing inner court dimensions and area are contrary to ZR 23-851. Proposed elevator enclosure increases the degree of non-compliance. It is contrary to ZR 54-31;”
and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R7-2 zoning district, an enlargement to an existing building to accommodate an elevator, which does not

comply with floor area, open space, and inner court regulations, contrary to ZR §§ 23-87, 54-31, 23-852, and 23-851; 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 November 9, 2010, and then to decision on December 14, 2010; and

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

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

WHEREAS, the site is located on the north side of East 10th Street, between University Place and Broadway; and

WHEREAS, the site is rectangular and has a lot area of approximately 4,255 sq. ft.; and

WHEREAS, the site is occupied by a five-story multiple dwelling with an interior courtyard measuring approximately 29’-8” by 12’-7”; and

WHEREAS, the building was built in the 1870s and is occupied by ten residential units; and

WHEREAS, the applicant proposes to construct an elevator and elevator enclosure within the inner court, with exterior dimensions of 6’-6” by 10’-2”, which increases the building footprint by 82 sq. ft. and which would increase the pre-existing non-compliance of the (1) floor area, (2) lot coverage, and (3) inner court conditions, thus necessitating a variance; and

WHEREAS, the proposal reflects the following: (1) an increase in the pre-existing non-complying floor area from approximately 17,040 sq. ft. (4.0 FAR) (14,637 sq. ft. [3.44 FAR] is the maximum permitted) to 17,380 sq. ft. (4.08 FAR); (2) an increase in the lot coverage from 80 percent to 82 percent (65 percent is the maximum permitted); and (3) a reduction in the size of the pre-existing non-complying inner court from 373 sq. ft. to 291 sq. ft. (1,200 sq. ft. is the minimum required area for an inner court; and

WHEREAS, the applicant represents that the proposed enlargement will increase the noted pre-existing non-complying conditions but not create any new non-compliances; and

WHEREAS, the applicant represents that the variance request is necessitated by unique conditions of the site that create a hardship, specifically: the obsolescence and constraints of the existing building, which has a height of 55 feet without a passenger elevator; and

WHEREAS, the applicant represents that the existing building is constrained and suffers a hardship based on the fact that it is one of only two buildings within a radius of more than 400-ft. from the site that are five stories or more that does not have an elevator; and

WHEREAS, further, the applicant represents that the absence of the elevator creates a financial hardship for the building; and

WHEREAS, as to the uniqueness of the building conditions, the applicant performed a survey of all buildings within 400 feet of the existing building, between East 8th

MINUTES

Street and East 14th Street and University Place and Fourth Avenue and found that of the 125 lots analyzed, the subject site is one of only two sites occupied by a building with five or more stories without an elevator; and

WHEREAS, further, the applicant notes that, at 55 feet, the subject building has a greater height than the other five-story building (45 University Place) without an elevator, at 53 feet; and

WHEREAS, the applicant provided a chart and a land use map, which identifies (1) buildings with five or more stories and (2) buildings with five or more stories that do not have elevators; and

WHEREAS, the applicant also states that the building's height of 55 feet, with a distance of more than 11 feet between floors, is more typical of a six-story building and six-story buildings are required to have elevators, by code; and

WHEREAS, the applicant states that of the 16 sites with frontage on East 10th Street between Broadway and University Place, the subject building is (1) one of only three that does not have an elevator and (2) the tallest building without a passenger elevator since the two other buildings without elevators are four-story buildings; and

WHEREAS, further, the applicant represents that installing an elevator within the existing building envelope and thus complying with the applicable zoning creates a hardship; and

WHEREAS, specifically, the applicant represents that the building was built approximately 140 years ago and that the wood joists and masonry bearing wall construction make reconfiguration of the building to accommodate a passenger elevator within the existing envelope infeasible; and

WHEREAS, the applicant asserts that the installation of an elevator within the existing building envelope would require the modification of five of the ten apartment units, which would be logistically and economically problematic; and

WHEREAS, the applicant also represents that the existing building core, which includes a single interior staircase cannot also accommodate an elevator and that in order to accommodate an elevator within the existing building envelope, the applicant would be required to carve out portions of and reconfigure five existing cooperatively owned and occupied apartment units; and

WHEREAS, accordingly, based upon the above, the Board finds that the limitations and inefficiencies of the existing building create unnecessary hardship and practical difficulty in continued use of the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant provided a financial analysis for (1) the existing condition, (2) a complying scenario with the elevator within the existing building envelope; and (3) the proposal for an elevator within the inner courtyard; and

WHEREAS, based on the analysis, the applicant concludes that the existing condition of a five-story building without an elevator suffers a hardship specifically since it is at a disadvantage to all other five-story and taller buildings within the study area; and

WHEREAS, the study also concluded that due to the premium costs associated with reconfiguring the existing building, the complying scenario would not result in a reasonable return, but the proposal would realize a reasonable return; and

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

WHEREAS, the applicant asserts that the existing building, which will remain, is compatible with the context of the immediate area; and

WHEREAS, the applicant notes that the increase in lot coverage and reduction of the courtyard is limited to a fully enclosed interior of the building, which is not visible from the street or adjacent buildings; and

WHEREAS, the applicant also notes that the only change to the building's envelope will be the infill of the courtyard; and

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

WHEREAS, the applicant states that the hardship was not self-created and that it is rather attributed to the unique physical conditions of the historic building; and

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

WHEREAS, the applicant represents that the requested waivers, which reflect increases to pre-existing non-complying conditions, are the minimum necessary to accommodate the elevator enclosure; and

WHEREAS, accordingly, the Board finds that the requested relief is the minimum necessary; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 72-21 and grants a variance to permit, within an R7-2 zoning district, an enlargement to an existing building to accommodate an elevator, which does not comply with floor area, open space, and inner court regulations, contrary to ZR §§ 23-87, 54-31, 23-852, and 23-851, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 12, 2010" – four (4) sheets; and *on further condition*:

THAT the lot coverage post-enlargement shall not exceed 82 percent and the floor area shall not exceed 17,380 sq. ft., as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the

MINUTES

Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT substantial construction shall be completed pursuant to ZR § 72-23;

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

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

Adopted by the Board of Standards and Appeals, December 14, 2010.

103-10-BZ

APPLICANT – Law Office of Frederick A. Becker, for Zehava Kraitenberg and Larry Kraitenberg, owners.

SUBJECT – Application June 7, 2010 – Special Permit (§73-622) for the enlargement and in-part legalization of an existing single family home contrary to floor area, open space (§23-141), side yard requirement (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1036 East 24th Street, west side of East 24th Street, between Avenue J and Avenue K, Block 7605, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

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 May 6, 2010, acting on Department of Buildings Application No. 300352838, reads in pertinent part:

“Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space ratio

Proposed plans are contrary to ZR 23-461 in that the proposed straight line extension of the side yard provides less than the minimum required side yard

Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than that of the of minimum required rear yard;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement and partial legalization of a single-family home, which does not comply with the zoning requirements

for floor area ratio (“FAR”), open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on October 19, 2010, after due notice by publication in *The City Record*, with a continued hearing on November 16, 2010, and then to decision on December 14, 2010; and

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

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

WHEREAS, the subject site is located on the west side of East 24th Street, between Avenue J and Avenue K, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,390 sq. ft., and is occupied by a single-family home with a floor area of 3,500 sq. ft. (0.80 FAR); and

WHEREAS, the applicant states that the subject home was enlarged pursuant to plans approved by the Department of Buildings in 1994, which permitted a second floor extension at the front, a two-story extension at the side, a new interior layout, air conditioning, plumbing, windows, stucco and porches; and

WHEREAS, the applicant further states that the owner subsequently performed additional alterations, including the enlargement of the dining room through the enclosure of an approved porch, the addition of a small den at the rear of the home, and the enlargement of the kitchen; these additional alterations resulted in non-compliances associated with FAR, open space ratio and rear yard depth, which the owner now proposes to legalize; and

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

WHEREAS, the applicant seeks an increase in the floor area from 3,500 sq. ft. (0.80 FAR) to 3,967 sq. ft. (0.90 FAR); the maximum permitted floor area is 2,195 sq. ft. (0.50 FAR); and

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

WHEREAS, the applicant proposes to maintain the existing side yard with a width of 4’-8½” along the northern lot line (a minimum width of 5’-0” is required); and

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

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

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

WHEREAS, the Board finds that, under the conditions

MINUTES

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement and partial legalization of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received June 7, 2010"- (10) sheets and ; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,967 sq. ft. (0.90 FAR); a minimum open space ratio of 61 percent; a side yard with a minimum width of 4'-8½" along the northern lot line; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, December 14, 2010.

104-10-BZ

CEQR #10-BSA-077K

APPLICANT – Moshe M. Friedman, P.E., for Congregation Ohr Yisroel Inc., owner.

SUBJECT – Application June 8, 2010 – Variance (§72-21) to permit the extension and conversion of an existing residential building to a synagogue and rectory, contrary to lot coverage and floor area (§24-11) front yard (§24-34), side yard (§24-35) and wall height and sky exposure plane (§24-521). R5 zoning district.

PREMISES AFFECTED – 5002 19th Avenue, aka 1880-1890 50th Street, south side of 50th Street, west of 19th Avenue, Block 5461, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant:

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated May 13, 2010, acting on Department of Buildings Application No. 320152213 reads, in pertinent part:

“Proposed house of worship (UG 4) in an R5 district

is contrary to:

- ZR 24-11 Floor Area & Lot Coverage
- ZR 24-521 Height
- ZR 23-34 Front Yard
- ZR 24-35 Side Yard
- ZR 23-521 Sky Exposure Plane

And requires a variance from the Board of Standards and Appeals as per Section 72-21;” and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an R5 zoning district, the conversion and enlargement of an existing residential building to a synagogue (Use Group 4), which does not comply with floor area, lot coverage, front yard, side yard, height and sky exposure plane requirements for community facilities, contrary to ZR §§ 24-11, 24-34, 24-35 and 24-521; and

WHEREAS, a public hearing was held on this application on October 5, 2010, after due notice by publication in *The City Record*, with a continued hearing on November 16, 2010, and then to decision on December 14, 2010; and

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

WHEREAS, Community Board 12, Brooklyn, recommends approval of the application; and

WHEREAS, certain neighborhood residents provided written testimony in support of this application; and

WHEREAS, this application is being brought on behalf of Congregation Ohr Yisroel, a non-profit religious entity (the “Synagogue”); and

WHEREAS, the subject site is located on the southwest corner of 19th Avenue and 50th Street, within an R5 zoning district; and

WHEREAS, the subject lot has a width of 20'-2", a depth of 100'-0", and a lot area of 2,081 sq. ft.; and

WHEREAS, the subject site is currently occupied by a two-story residential building with a floor area of 3,464 sq. ft. (1.72 FAR); and

WHEREAS, the proposed building provides for a

MINUTES

three-story synagogue with the following parameters: a floor area of 5,696 sq. ft. (the maximum permitted floor area is 4,162 sq. ft.), an FAR of 2.82 (the maximum permitted FAR is 2.0); lot coverage of 94 percent (the maximum permitted lot coverage is 60 percent); a front yard with a depth of 5'-0" along the eastern lot line and no front yard along the northern lot line (a front yard with a minimum depth of 10'-0" is required); no side yards (two side yards with minimum depths of 8'-0" and 9'-6", respectively, are required); a front wall height of 40'-0" (the maximum permitted front wall height is 35'-0"); and encroachment into the sky exposure plane; and

WHEREAS, the proposal provides for the following uses: (1) a synagogue at the cellar level and first floor; (2) a women's balcony on the second floor; and (3) a library and rabbinical study room on the third floor; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to accommodate its growing congregation; and (2) to provide a separate space for men and women during religious services; and

WHEREAS, the applicant states that the congregation currently has a membership of 60 families and there are approximately 60 congregants who worship at the current rented facility on the Sabbath, between 30 and 40 congregants who attend daily services, and approximately 115 congregants who attend holiday services; and

WHEREAS, the applicant further states that the congregation currently worships in rented space and has to rent out additional space for holiday services, which attract a larger number of worshippers; and

WHEREAS, the applicant represents that the size, layout and design of the subject building is inadequate to serve the current congregation; and

WHEREAS, the applicant represents that the congregation is made up of many young families and has been growing steadily since its inception, and that the proposed synagogue is necessary to accommodate the future growth of the congregation; and

WHEREAS, the applicant states that the proposed building can accommodate its growing congregation as well as provide a separate worship space for men and women, as required by religious doctrine; and

WHEREAS, the applicant states that the requested waivers enable the Synagogue to provide adequate space for worship services in the cellar synagogue, first floor synagogue, and the women's balcony; and

WHEREAS, the applicant represents that worship space which separates men and women is critical to its religious practice; and

WHEREAS, the applicant further represents that the third floor study space is necessary to accommodate the religious traditions of the congregation, which require that the congregation set aside a study period during prayer times for the study of the Torah, Talmud, and other Jewish religious texts; and

WHEREAS, the Board acknowledges that the Synagogue, as a religious institution, is entitled to significant

deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

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

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

WHEREAS, however, the applicant also represents that the narrow width of the site creates an unnecessary hardship in developing the site in compliance with applicable regulations; and

WHEREAS, the subject lot has a width of 20'-2"; and

WHEREAS, the applicant states that the site is too narrow to accommodate a complying synagogue building, as providing complying side yards would reduce the width of the building to 4'-9"; and

WHEREAS, the applicant represents that, therefore, the required floor area cannot be accommodated within the as-of-right lot coverage, floor area, and yard parameters and allow for efficient floor plates that accommodate the Synagogue's programmatic needs, thus necessitating the requested waivers of these provisions; and

WHEREAS, based upon the above, the Board finds that the aforementioned physical condition, when considered in conjunction with the programmatic needs of the Synagogue, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

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

WHEREAS, as to bulk, the applicant submitted a 400-ft. radius diagram reflecting that the residential character of the surrounding neighborhood includes one-, two- and three-family homes and three- and four-story apartment buildings; and

WHEREAS, the applicant states that the proposed three-story building is consistent with the surrounding area, as three-story residential buildings are permitted in the subject zoning district; and

WHEREAS, at hearing, the Board questioned whether the applicant needed the requested front yard waiver, and the effect it would have on the surrounding residences; and

MINUTES

WHEREAS, in response, the applicant submitted plans for a lesser variance alternative that eliminated the front yard waiver; and

WHEREAS, the plans submitted by the applicant reflect that the lesser variance scenario would limit the occupancy of both the proposed synagogue and balcony to 63 people, and would limit the occupancy of the cellar synagogue to 38 people; and

WHEREAS, the applicant states that while the lesser variance scenario would provide a temporary reprieve to the Synagogue's space requirements for weekday and Sabbath services, it would not meet the programmatic needs of the Synagogue because it would not provide adequate space to accommodate the current congregation during holiday services, and would not provide space to accommodate the anticipated growth of the congregation; and

WHEREAS, the applicant also submitted letters from the adjacent neighbors on 19th Avenue in support of the proposal, including the extension of the building into the front yard; and

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

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

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

WHEREAS, as noted above, the applicant submitted plans for a lesser variance scenario which was unable to meet the programmatic needs of the Synagogue; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Synagogue the relief needed to meet its programmatic needs; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 10BSA077K, dated September 15, 2010; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R5 zoning district, the conversion and enlargement of an existing residential building to a synagogue (Use Group 4), which does not comply with floor area, lot coverage, front yard, side yard, height and sky exposure plane requirements for community facilities, contrary to ZR §§ 24-11, 24-34, 24-35 and 24-521, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 8, 2010" – (3) sheets, "Received September 15, 2010" – (2) sheets and "Received November 3, 2010" – (5) sheets and *on further condition*:

THAT the building parameters shall be: a floor area of 5,696 sq. ft. (2.82 FAR); lot coverage of 94 percent; a front yard with a depth of 5'-0" along the eastern lot line; and a front wall height of 40'-0", as illustrated on the BSA-approved plans;

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

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

THAT no commercial catering shall take place onsite;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, December 14, 2010.

MINUTES

122-10-BZ

APPLICANT – Bryan Cave LLP., for Congregation Rodeph Sholom, owner.

SUBJECT – Application July 1, 2010 – Variance (§72-21) to permit the rooftop addition for a community facility use (*Rodeph Sholom School*), contrary to maximum height regulations (§23-692). R8B zoning district.

PREMISES AFFECTED – 163 West 78th Street, Between Amsterdam and Columbus Avenues, 134 feet east of Amsterdam Avenue. Block 1150, Lot 6. Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Judith M. Gallent.

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 Manhattan Borough Superintendent, dated June 14, 2010, acting on Department of Buildings Application No. 110379055, reads in pertinent part:

“Proposed 6th floor exceeds the Community Facility Height and Setback regulations contrary to ZR 24-522, ZR 23-633, ZR 24-592 and ZR 23-692;” and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site in an R8B zoning district within the Upper West Side/Central Park West Historic District, the construction of a rooftop enlargement of an existing five-story school building, which does not comply with zoning regulations for height and setback, contrary to ZR §§ 24-522, 23-633, 24-592 and 23-692; and

WHEREAS, a public hearing was held on this application on November 23, 2010, after due notice by publication in the *City Record*, and then to decision on December 14, 2010; and

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

WHEREAS, Community Board 7, Manhattan, recommends approval of the application; and

WHEREAS, a resident of the community provided oral testimony in support of this application; and

WHEREAS, this application is brought on behalf of The Rodeph Sholom School (the “School”), a not for profit educational institution affiliated with Congregation Rodeph Sholom; and

WHEREAS, the site is located on the north side of West 78th Street, between Columbus Avenue and Amsterdam Avenue, in an R8B zoning district within the Upper West Side/Central Park West Historic District; and

WHEREAS, the site has 19 feet of frontage on West 78th Street, a depth of approximately 102 feet, and a lot area of 1,941 sq. ft.; and

WHEREAS, the site is occupied by a five-story building which is operated by the School; and

WHEREAS, the applicant notes that the School operates out of three facilities on the Upper West Side of Manhattan: the Congregation Rodeph Sholom synagogue, located at 7 West 83rd Street, which houses the nursery school; 10 West 84th Street, which houses the pre-Kindergarten through first grade; and 168 West 79th Street (aka, 165-167 West 78th Street) (the “West 78th/West 79th Street Building”), which, together with the subject building, houses second grade through eighth grade students (the “Upper Elementary and Middle School Divisions”); and

WHEREAS, the applicant further notes that the West 78th/West 79th Street Building (located on Block 1150, Lot 59) is located adjacent to the subject building on a separate zoning lot, and that the buildings are separate buildings with openings between them, as approved by the Department of Buildings (“DOB”); and

WHEREAS, on February 26, 2002, under BSA Cal. No. 258-01-BZ, the Board granted a variance to permit the enlargement of the West 78th/West 79th Street Building; and

WHEREAS, the applicant states that the enlargement facilitated by the 2002 variance was not sufficient to accommodate the growing student population of the School, and as a result, the School purchased the subject site in 2008; and

WHEREAS, the applicant now proposes to construct a 930 sq. ft. sixth floor penthouse addition to the subject building, which will increase the total building height to 75’-0” (the maximum permitted total building height is 60’-0”); and

WHEREAS, the proposed penthouse addition will be occupied by recreation space; and

WHEREAS, the applicant states that the proposed penthouse addition is necessary to meet the School’s programmatic needs of providing additional recreation space for the Upper Elementary and Middle School Divisions; and

WHEREAS, in order to meet its programmatic needs, the applicant seeks a variance pursuant to ZR § 72-21; and

WHEREAS, the applicant states that the Upper Elementary and Middle School Divisions consist of 342 students, who are accommodated in just 48,589 sq. ft. of space, which provides only 142 sq. ft. of space per student and only 12.7 sq. ft. of active recreation space per student; and

WHEREAS, the applicant submitted a memorandum from its architect indicating that competing New York City independent schools provide an average of 193 sq. ft. of space per student and 30.7 sq. ft. of active recreation space per student; and

WHEREAS, the applicant represents that the size of the gymnasium for the Upper Elementary and Middle School Divisions is substandard at 2,207 sq. ft., as the minimum size for a gymnasium to hold a middle school basketball court is 4,128 sq. ft.; and

WHEREAS, the applicant states that the gymnasium and an 809 sq. ft. movement studio are programmed for physical education classes throughout the day, which leaves a 1,315 sq. ft. outdoor play area as the only space dedicated to recess; and

WHEREAS, the applicant represents that the lack of

MINUTES

additional indoor recreation space makes it impossible for the School to meet its programmatic needs in the following ways: (1) there is no dedicated recess space for inclement weather, which leaves many children without any active play time during recess in such conditions; (2) even when the weather is cooperative, the School is unable to meet national recommended standards for weekly physical education and recess; (3) the quality of recess time that the students do have is compromised by the need for mixed-grade recess, where children of varying developmental levels are required to share space and facilities; and (4) certain physical activities, such as basketball, crowd out other forms of physical activity in the 1,315 sq. ft. outdoor play area, making it difficult for other students to engage in alternative forms of physical activity; and

WHEREAS, therefore, the applicant states that the requested height and setback waiver is necessary to provide the school with the required sixth floor penthouse play space addition; and

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

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

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

WHEREAS, in addition to the School's programmatic needs, the applicant states that the unique physical conditions on the site, specifically the shallow depth to groundwater and bedrock, create practical difficulties and unnecessary hardship in strictly complying with the applicable bulk regulations; and

WHEREAS, the applicant represents that the School has explored a complying enlargement to accommodate the indoor play space that is necessary to meet its programmatic needs and that, due to space constraints on the small site, the only place where the proposed play space could be located as-of-right would be below grade; and

WHEREAS, however, the applicant states that the shallow depth to both groundwater and bedrock at the site make the cost of constructing such space below grade cost prohibitive; and

WHEREAS, the applicant states that the existing cellar is only 7'-0" deep and that in order to make the cellar habitable for active recreation use, it would need an additional depth of 4'-4" in order to allow for the needed ceiling height of 11'-6"; and

WHEREAS, as to the depth of bedrock, the applicant submitted a report from an engineering consultant stating that bedrock is located just 8'-6" below the surface of the site, and that providing the necessary ceiling height would require

excavating approximately 5'-5", of which 4'-6" would be bedrock; and

WHEREAS, the engineer's report further states that the estimated cost of removing the bedrock and associated monitoring would be approximately \$477,350; and

WHEREAS, as to the depth of the groundwater at the site, the engineer's report states that, due to the existence of an underground stream, groundwater is encountered at 12 feet below the surface, which is just one foot below the existing cellar slab; and

WHEREAS, the engineer's report further states that excavation to extend the cellar would require both temporary removal of groundwater during construction and permanent groundwater control, which was estimated to cost approximately \$1,277,488; and

WHEREAS, the applicant states that, even if these unique physical conditions associated with the shallow depth to both bedrock and groundwater were not cost prohibitive, the resulting subterranean play space, with no access to natural light or air, would not adequately meet the School's programmatic needs, as it is widely accepted that children need access to light and air; and

WHEREAS, accordingly, the additional recreation space that is required to meet the School's programmatic needs must be located above grade, necessitating the requested waiver of the 60-ft. height limit imposed by ZR § 23-692; and

WHEREAS, based upon the above, the Board finds that the aforementioned physical conditions, when considered in conjunction with the programmatic needs of the School, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

WHEREAS, the applicant states that the two buildings to the west of the site (165 and 167 West 78th Street), which are part of the School, have existing sixth floor rooftop additions which bring the height of those buildings to 75'-2 1/2"; and

WHEREAS, the applicant further states that the adjacent building to the east of the site is a residential building undergoing renovation, which has an approved 12'-0" high penthouse addition atop the existing five-story building, which will bring the height of the building to 70'-0"; and

WHEREAS, the applicant represents that, since the buildings to the immediate east and west of the site have existing or approved sixth floor additions, the proposed penthouse addition at the subject site will improve the view of the roofscape on West 78th Street for surrounding upper-floor properties by filling in the missing sixth floor space

MINUTES

between the buildings to the east and west; and
WHEREAS, the applicant states that the proposed penthouse addition would replace a previous penthouse addition that existed on the rooftop of the subject building prior to its demolition in connection with the renovation of the building; and

WHEREAS, the applicant further states that the proposed penthouse addition is setback from the streetwall and would not be visible from the street; and

WHEREAS, the applicant notes that the subject application only seeks a waiver for total building height, and that the proposed building will comply with all other bulk requirements of the underlying zoning district; and

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

WHEREAS, the applicant submitted a Certificate of Appropriateness from the Landmarks Preservation Commission approving the proposed enlargement, dated December 4, 2008; and

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

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

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner; and

WHEREAS, the applicant represents that the requested waiver is the minimum necessary to accommodate the School's current and projected programmatic needs; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21 and grants a variance to permit, on a site in an R8B zoning district within the Upper West Side/Central Park West Historic District, the construction of a rooftop enlargement of an existing five-story school building (Use Group 3), which does not comply with zoning regulations for height and setback, contrary to ZR §§ 24-522, 23-633, 24-592 and 23-692, *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 1, 2010" – (5) sheets and "Received September 29, 2010" – (2) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: a floor area of 7,764 sq. ft. (4.0 FAR); and a maximum total building height of 75'-0";

THAT any change in the use, occupancy, or operator of

the school requires review and approval by the Board;

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

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

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, December 14, 2010.

190-10-BZ

CEQR #11-BSA-031Q

APPLICANT – Sheldon Lobel, P.C., for Yeshiva Har Torah, owner.

SUBJECT – Application October 12, 2010 – Variance (§72-21) to permit the addition of a third floor to an existing two-story school building (*Yeshiva Har Torah*), contrary to rear yard (§24-36) and setback (§24-551) regulations. R3-2 zoning district.

PREMISES AFFECTED – 250-10 Grand Central Parkway, south side of Grand Parkway service road, between Little Neck Parkway and Commonwealth Boulevard, Block 8401, Lot 7501, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Richard Lobel and Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated October 4, 2010, acting on Department of Buildings Application No. 420206137, reads in pertinent part:

“Proposed enlargement of existing Use Group 3 school building:

1. Does not provide the minimum rear yard required under ZR 24-36.
2. Does not provide the side setback required under ZR 24-551;” and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R3-2 zoning district, the construction of a third floor to an existing two-story school building, which does not comply with zoning regulations for rear yard and side setback, contrary to ZR §§ 24-36 and 24-551; and

WHEREAS, a public hearing was held on this

MINUTES

application on November 23, 2010, after due notice by publication in the *City Record*, and then to decision on December 14, 2010; and

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

WHEREAS, Community Board 13, Queens, recommends approval of the application; and

WHEREAS, this application is brought on behalf of Yeshiva Har Torah (the "School"), a not for profit religious educational institution; and

WHEREAS, the site is located on the south side of Grand Central Parkway, between Little Neck Parkway and Commonwealth Boulevard, within an R3-2 zoning district; and

WHEREAS, the site has a lot area of 46,292 sq. ft.; and

WHEREAS, the site is occupied by a two-story building with a floor area of 32,630 sq. ft. (0.70 FAR), which is operated by the School; and

WHEREAS, on June 10, 1958, under BSA Cal. No. 207-58-A, the Board granted an appeal from an order of the Fire Commissioner to allow the storage of liquefied chlorine at the site in connection with the operation of a country club with an accessory swimming pool at the site; and

WHEREAS, the applicant notes that when the School purchased the premises in 2001 it was occupied by an abandoned hotel building, which was demolished in order to construct the subject building, and that liquefied chlorine is no longer stored at the site; and

WHEREAS, the applicant now proposes to construct a 15,513 sq. ft. third floor to the subject building; and

WHEREAS, the proposed building will have the following complying parameters: a floor area of 48,143 sq. ft. (1.04 FAR); a lot coverage of 36 percent; a wall height of 15'-0"; a total height of 47'-3"; a front yard of 30'-0"; a side yard of 16'-7" along the eastern lot line; and a side yard of 18'-11" along the western lot line; and

WHEREAS, however, the proposed third floor will create the following non-compliances: a rear yard with a depth of 29'-6" (a rear yard with a minimum depth of 30'-0" is required); and side setbacks of 16'-7" along the eastern lot line and 18'-11" along the western lot line (a minimum side setback of 23'-8" is required); and

WHEREAS, the proposed third floor will be occupied by 11 classrooms including a computer lab, three instructional rooms, restrooms, storage and office space; and

WHEREAS, the applicant states that the proposed third floor is necessary to meet the School's programmatic need of accommodating the current enrollment while allowing for future growth; and

WHEREAS, in order to meet its programmatic needs, the applicant seeks a variance pursuant to ZR § 72-21; and

WHEREAS, the applicant states that the School currently has 502 students enrolled for the 2010-2011 academic year, which is an increase from the 2009-2010 school year, when 474 students were enrolled; and

WHEREAS, the applicant represents that the School expects to grow to a maximum projected enrollment of 612

students, with an anticipated addition of 12 to 15 new staff members to accommodate the increased enrollment; and

WHEREAS, the applicant states that the existing building is already overburdened and inadequate for the current enrollment, and that the requested waivers are necessary to relieve the current space constraints and accommodate the anticipated growth of the student body; and

WHEREAS, the applicant states that currently, students are forced to meet in the library and in the synagogue for classes due to inadequate classroom space; and

WHEREAS, the applicant states that the proposed third floor layout would not only provide additional classroom space for the students, but would also allow the library and synagogue to be used for their intended purposes and not as makeshift classrooms; and

WHEREAS, the applicant represents that the requested rear yard and side setback waivers are necessary to allow the applicant to match the proposed third floor with the existing building footprint, thereby allowing for a more uniform building design; and

WHEREAS, the applicant states that in order to provide a complying third floor, the footprint of the proposed addition would be reduced on both sides by more than 7'-6" and critical program space would be decreased; and

WHEREAS, specifically, if the third floor were set back on each side as required, the overall floor area of the third floor would be decreased by 1,400 sq. ft., and due to the location of the two stairwells in the existing building, the rooms on either side of the floor would need to be reduced in size by approximately 150-200 sq. ft. each; and

WHEREAS, the applicant submitted alternative plans reflecting that an as-of-right third floor would result in several classrooms that are one-third smaller than proposed and would provide inadequate space to accommodate the anticipated growth in enrollment; and

WHEREAS, therefore, the applicant states that the requested rear yard and setback waivers are necessary to provide the School with the required amount of program space to accommodate the current enrollment and allow for future growth; and

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

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

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

WHEREAS, since the School is a non-profit institution and the variance is needed to further its non-profit mission,

MINUTES

the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

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

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

WHEREAS, the applicant submitted a 400-ft. radius diagram reflecting that the lots immediately adjacent to the site are occupied by a health care facility and several two-story multiple dwelling buildings; and

WHEREAS, the radius diagram submitted by the applicant reflects that a six-story, three building residential development is located south of the site, on the subject block; and

WHEREAS, the applicant notes that the requested rear yard and side setback waivers are minimal, and that the proposed building will comply with all other bulk requirements of the underlying zoning district; and

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

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

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner; and

WHEREAS, the applicant represents that the requested waiver is the minimum necessary to accommodate the School's current and projected programmatic needs; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, therefore, 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, 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. 11BSA031Q, dated October 12, 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 § 72-21 and grants a variance to permit, on a site within an R3-2 zoning district, the construction of a third floor to an existing two-story school building, which does not comply with zoning regulations for rear yard and side setback, contrary to ZR §§ 24-36 and 24-551, *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 November 22, 2010" – (14) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: a floor area of 48,143 sq. ft. (1.04 FAR); a side setback of 18'-11" along the eastern lot line; a side setback of 16'-7" along the western lot line; and a rear yard with a depth of 29'-6", as illustrated on the BSA-approved plans;

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

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

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

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, December 14, 2010.

277-07-BZ

APPLICANT – Miele Associates, LLP, for Barnik Associates LLC & Lama Holdings, LLC, owner.

SUBJECT – Application December 3, 2007 – Variance (§72-21) for the development of a one-story automotive service station with accessory convenience store, contrary to §22-10. R3-1 zoning district

PREMISES AFFECTED – 165-35 North Conduit Avenue, North west corner of North Conduit Avenue & Guy R, Brewer Boulevard. Block 12318, Lot 10, Borough of Queens.

COMMUNITY BOARD #12Q

MINUTES

APPEARANCES –

For Applicant: Joel Miele Sr., Hiram Rothkrug, Robert Pauls and Adam DeGerling

ACTION OF THE BOARD – Laid over to January 25, 2011, at 1:30 P.M., for continued hearing.

98-08-BZ

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

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

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

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Sandy Anagnostou.

ACTION OF THE BOARD – Laid over to January 11, 2011, at 1:30 P.M., for deferred decision.

31-09-BZ

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

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

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

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Eric Palatnik.

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 January 25, 2011, at 1:30 P.M., for decision, hearing closed.

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.

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 January 25, 2011, at 1:30 P.M., for decision, hearing closed.

45-10-BZ

APPLICANT – Sheldon Lobel, PC, for Leemilt's Petroleum, Incorporated, owner.

SUBJECT – Application April 5, 2010 – Special Permit (§11-411 and §11-412) for the reinstatement of a Variance for the continued operation of a gasoline service station (*Getty*) which expired on June 23, 1986; Amendment to increase the size of the auto laundry; Extension of Time to obtain a Certificate of Occupancy. C1-4/R7-1 zoning district.

PREMISES AFFECTED – 1413-1429 Edward L. Grant Highway, southwest corner of Plimpton Avenue and Edward L. Grant Highway, Block 2521, Lot 15, Borough of Bronx.

COMMUNITY BOARD #4BX

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Laid over to February 1, 2011, at 1:30 P.M., for continued hearing.

55-10-BZ

APPLICANT – Eric Palatnik, P.C., for FAS Main Street Family Limited Partnership, owner.

SUBJECT – Application April 19, 2010 – Special Permit (§73-44) to permit a reduction in required parking for an ambulatory or diagnostic treatment center. C4-2/C4-3 zoning districts.

PREMISES AFFECTED – 40-22 Main Street, northwest corner of Main Street, northwest corner of Main Street and 40th Street, Block 5036, Lot 42, Borough of Queens.

COMMUNITY BOARD #7Q

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 February 8, 2011, at 1:30 P.M., for decision, hearing closed.

MINUTES

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.

For Opposition: David Reck, Matt Viggiano, Howard Weiss, Joshua Simons, and Maryann Mahloudji.

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 February 15, 2011, at 1:30 P.M., for decision, hearing closed.

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 (*Associazione Sacchese D’America*), contrary to side yard regulations (§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

APPEARANCES –

For Applicant: Calvin Wong.

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 January 11, 2011, at 1:30 P.M., for decision, hearing closed.

128-10-BZ

APPLICANT – Eric Palatnik, P.C., for Merhay Yagaduyev, owner; Jewish Center of Kew Gardens Hill Inc., lessee.

SUBJECT – Application July 13, 2010 – Variance (§72-21) to permit proposed synagogue, religious school and Rabbi’s residence (*Jewish Center of Kew Gardens*) contrary to floor area and lot coverage (§24-11), height, setback and sky exposure plane (§24-521), front yard (§24-34), side yards (§24-35), side setback (§24-551), and minimum distance between windows (§24-672 and §23-863). R4 zoning district.

PREMISES AFFECTED – 147-58 77th Road, 150th Street

and 77th Road, Block 6688, Lot 31, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik and Ilyazhk Yagudayev.

ACTION OF THE BOARD – Laid over to February 15, 2011, at 1:30 P.M., for continued hearing.

140-10-BZ thru 147-10-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Edward Lauria, owner.

SUBJECT – Application August 9, 2010 – Variance (§72-21) to allow four single-family homes on a zoning lot that does not meet the minimum lot width requirements (§23-32), and waiver to the General City Law, Section 36, for development not fronting a mapped street. R1-2 (NA-1) zoning district.

PREMISES AFFECTED – 160, 170, 181, 191, Edinboro Road, south of Meisner Avenue, east of intersection Lighthouse Avenue and Edinboro Road, Block 2267, Lot 55(tent), 50, 197, 168, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Todd Dale and Edward Lauria.

For Administration: Anthony Scaduto, Fire Department.

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

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 legalization and enlargement of a single family home, contrary to floor area and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R2 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

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to January 25, 2010, at 1:30 P.M., for continued hearing.

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*). 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.

MINUTES

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Josh Rinesmith.

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 January 11, 2011, at 1:30 P.M., for decision, hearing closed.

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 (§23-141); side yard (§23-461) and rear yard (§23-47) regulations. R2 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

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to January 25, 2010, at 1:30 P.M., for continued hearing.

183-10-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Cornerstone Residence LLC, owner.

SUBJECT – Application September 20, 2010 – Variance (§72-21) for the construction of a detached two-story, two family residence, contrary to front yard (§23-45) and side yard requirements (§23-461). R5 zoning district.

PREMISES AFFECTED – 873 Belmont Avenue, aka 240 Milford Street, northwest corner of Belmont Avenue and Milford Street, Block 4024, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Todd Dale.

For Opposition:

ACTION OF THE BOARD – Laid over to February 1, 2011, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

*CORRECTION

This resolution adopted on November 23, 2010, under Calendar Nos. 1493-61-BZ, 1495-61-BZ, 1497-61-BZ, 1499-61-BZ, 1501-61-BZ and printed in Volume 95, Bulletin No. 48, is hereby corrected to read as follows:

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.

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 the term for a previously granted variance for a transient parking garage, which expired on February 27, 2002; 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 decision on November 23, 2010; and

WHEREAS, Community Board 4, Manhattan, recommends approval of this application, with the condition that the previously-imposed restrictions on the garage operation remain in effect and that the ramps be certified as ADA-compliant; and

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

WHEREAS, the subject site is located on a through lot with frontage on West 23rd Street and West 24th Street, between Ninth Avenue and Tenth Avenue, within an R8A zoning district; and

WHEREAS, the site is occupied by ten 16-story residential buildings; and

WHEREAS, the cellar is occupied by a 185-space accessory garage; and

WHEREAS, on February 27, 1962, under the subject

MINUTES

calendar numbers, the Board granted a variance pursuant to Section 60(3) of the Multiple Dwelling Law (“MDL”) to permit a maximum of 149 surplus parking spaces to be used for transient parking for “pleasure-type” vehicles only, for a term of 20 years; and

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

WHEREAS, most recently, on October 27, 1992, the Board granted a ten-year extension of term, which expired on February 27, 2002, with the condition that the West 23rd Street ramp be used as an entrance only and that the West 24th Street ramp be used as an entrance and an exit; and

WHEREAS, the applicant now requests an extension of term; and

WHEREAS, the applicant submitted a photograph of the sign posted onsite, which states building residents’ right to recapture the surplus parking spaces; and

WHEREAS, in response to concerns raised by the Community Board, the applicant submitted a letter from its architect stating that the parking garage access ramps across the sidewalks on West 23rd Street and West 24th Street are ADA-compliant; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term is appropriate with certain conditions 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 having been adopted on February 27, 1962, so that as amended this portion of the resolution shall read: “to permit the extension of the term of the grant for an additional fifteen (15) years from February 27, 2002, to expire on February 27, 2017; *on condition:*

THAT this term shall expire on February 27, 2017;

THAT signage shall comply with the underlying zoning district regulations;

THAT all residential leases shall indicate that the spaces devoted to transient parking can be recaptured by residential tenants on 30 days notice to the owner;

THAT a sign providing the same information about tenant recapture rights be located in a conspicuous place within the garage, permanently affixed to the wall;

THAT the above conditions and all relevant conditions from the prior resolutions shall appear on the certificate of occupancy;

THAT the layout of the parking lot shall be as approved by the Department of Buildings;

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

(DOB App. No. 110429803)

Adopted by the Board of Standards and Appeals, November 23, 2010.

***The resolution has been corrected to change the term of the grant from *ten years* to *fifteen years* Corrected in Bulletin No. 51, Vol. 95, dated December 22, 2010.**