
BULLETIN

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DOCKET

New Case Filed Up to July 26, 2011

102-11-BZ

131-23 31st Avenue, northwest corner of the intersection of 31st Avenue & Whitestone Expressway. (West Service Road), Block 4361, Lot(s) 27, Borough of **Queens, Community Board: 07**. Special Permit (ZR §73-36) to allow the operation of a physical culture establishment (Planet Fitness). C4-4 zoning district. M1-1 (CP) district.

103-11-A

329 East 9th Street, north side of East 9th Street between 1st and 2nd Avenue, Block 451, Lot(s) 47, Borough of **Manhattan, Community Board: 03**. Application filed pursuant to Section 310 of the Multiple Dwelling Law (MDL) requesting that the Board vary MDL sections 51, 143, 146, 148 and 149 to allow the enlargement of the subject building. R8B district.

104-11-BZ

1936 East 26th Street, Between Avenues S and T, Block 7304, Lot(s) 21, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141(b)); open space (§23-141(b)); lot coverage (§23-141(b)) and less than the required rear yard (§23-47). R3-2 zoning district. 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

AUGUST 23, 2011, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, August 23, 2011, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1045-64-BZ

APPLICANT – Hal Dorfman, R.A., for Kips Bay Tower Associates, owner.

SUBJECT – Application June 10, 2011 – Extension of Term permitting the use of no more than 120 unused and surplus tenant parking spaces, within an accessory garage, for transient parking granted by the Board pursuant to §60(1)(b) of the Multiple Dwelling Law (MDL) which expired on June 21, 2011. R8 zoning district.

PREMISES AFFECTED – 300-330 East 33rd Street, Northwest corner of East 33rd Street and First Avenue. Block 936, Lot 7501. Borough of Manhattan.

COMMUNITY BOARD #6M

86-92-BZ

APPLICANT – Randy M. Gulkis, DDS, owner.

SUBJECT – Application April 29, 2011 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a UG6B dental office which expired on June 11, 2011. R3X zoning district.

PREMISES AFFECTED – 15 First Street, a triangle formed by First Street to the east, Richmond to west and Rose Street to the south, Block 4190, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

201-02-BZ

APPLICANT – Eric Palatnik, P.C., for Papa Page, LLC, owner.

SUBJECT – Application July 20, 2011 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a new automotive service station with accessory convenience store which expired on May 22, 2011 and a waiver of the rules. C1-1/R3X (SRD) zoning district.

PREMISES AFFECTED – 6778 Hylan Boulevard, between Page Avenue and Culotta. Block 7734, Lot 13 & 20, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEALS CALENDAR

15-11-A

APPLICANT – Slater & Beckerman, LLP., for 1239 Operating Corporation, owner.

SUBJECT – Application February 10, 2011 – An appeal challenging the Department of Building's interpretation that a non-illuminated advertising sign and sign structure is not a legal non-conforming advertising sign pursuant to ZR §52-00. C6 zoning district.

PREMISES AFFECTED – 860 Sixth Avenue, through lot on the north side of West 30th Street, between Broadway and Avenue of the Americas, Block 832, Lot 1. Borough of Manhattan.

COMMUNITY BOARD #5M

40-11-A

APPLICANT – Bryan Cave LLP, Margery Perlmutter, Esq., for CPW Retail, LLC c/o American Continental Properties, LLC, owner.

SUBJECT – Application April 8, 2011 – Appeal challenging a determination by the Department of Building that the non-conforming commercial use of a Condominium retail space was discontinued pursuant to §52-61. C1-1, C-2 & C-3 Zoning district.

PREMISES AFFECTED – 25 Central Park West, West 62nd and West 63rd Streets, Block 1115, Lot 7501(2) Borough of Manhattan.

COMMUNITY BOARD #7M

AUGUST 23, 2011, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 23, 2011, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

235-10-BZ

APPLICANT – Paul J. Proulux, Esq., c/o Cozen O'Connor, for Avenue K Corporation, owner; TD Bank c/o Facilities Department, lessees.

SUBJECT – Application December 30, 2010 – Variance (§72-21) to allow a commercial use in a residential zone, contrary to ZR §22-00. R3-2 zoning district.

PREMISES AFFECTED – 2363 Ralph Avenue, corner of Ralph Avenue and Avenue K, Block 8339, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

CALENDAR

17-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. David Mizrachi, owners.

SUBJECT – Application February 23, 2011 – Special Permit (§73-622) for the enlargement of an existing two family residence, to be converted to a single family residence, contrary to floor area, lot coverage and open space §23-141(b) and less than the required rear yard §23-47. R4/OP zoning district.

PREMISES AFFECTED – 2255 East 2nd Street, East side of East 2nd Street, approximately 145 feet south of Gravesend Neck Road. Block 7154, Lots 71 & 72, Borough of Brooklyn.

COMMUNITY BOARD #15BK

18-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for ZTI Corporation, owner.

SUBJECT – Application February 24, 2011 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space §23-141; side yards §23-461 and less than the required rear yard §23-47. R-2 zoning district.

PREMISES AFFECTED – 1025 East 22nd Street, between Avenue I and Avenue J, Block 7586, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #14BK

64-11-BZ

APPLICANT – Rampulla Associates Architects, for 3232 49th Realty, LLC, owner; K & G Fitness Group, LLC, lessee.

SUBJECT – Application May 12, 2011 – Special Permit (§73-36) to allow the operation of a physical cultural establishment (*Retro Fitness*) in a C8-1 zoning district.

PREMISES AFFECTED – 32-28 49th Street, between Northern Boulevard and New Town Road, Block 734, Lot 47, Borough of Queens.

COMMUNITY BOARD #1Q

72-11-BZ

APPLICANT – Walter t. Gorman, P.E., for Tannor and Rothafel Partnership, owner; Lukoil (Getty Service Station), lessee.

SUBJECT – Application May 24, 2011 – Re-Instatement (§11-411) of a previously approved variance permitting the operation of an automotive service station (UG 16B) which expired on October 8, 1994. R3-2 zoning district.

PREMISES AFFECTED - 101-06 Astoria Boulevard, south east corner of 101st Street. Block 1688, Lot 30. Borough of Queens.

COMMUNITY BOARD #3Q

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, JULY 26, 2011
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

887-54-BZ

APPLICANT – Eric Palatnik, P.C., for Napa Realty Corporation, owner.

SUBJECT – Application July 5, 2011 – Extension of Time to obtain a Certificate of Occupancy for an existing gasoline service station (*British Petroleum*) with accessory convenience store (*7-Eleven*) which expired on June 15, 2011. C2-2/R6B zoning district.

PREMISES AFFECTED – 218-01 Northern Boulevard, between 218th and 219th Streets, Block 6321, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to August 23, 2011, at 10 A.M., for decision, hearing closed.

713-55-BZ

APPLICANT – Walter T. Gorman, P.E., for East River Petroleum Realty LLC, owner; Brendan Utopia Mobil, lessee.

SUBJECT – Application May 3, 2011 – Extension of Term (§11-411) of a variance for the continued operation of a gasoline service station (*Mobil*) which expired on December 11, 2011. C2-2/R3-1 zoning district.

PREMISES AFFECTED – 181-05 Horace Harding Expressway, north side block front between Utopia and 182nd Street, Block 7065, Lot 8, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Zaheer Khanzada

ACTION OF THE BOARD – Laid over to August 23, 2011, at 10 A.M., for continued hearing.

502-60-BZ

APPLICANT – Patrick O' Connell P.E. for Raymond Edwards, owner; Angel R. Hernandez, lessee.

SUBJECT – Application February 23, 2011 – Extension of Term (§11-411) of a variance permitting the use of a parking

lot (UG 8) for parking and storage of more than five (5) motor vehicles which expired on January 20, 2011. C2-4/R7-2 zoning district.

PREMISES AFFECTED – 4452 Broadway, Broadway & Fairview Avenue. Block 2170, Lot 62 & 400. Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES –

For Applicant: Glendon Dockery.

ACTION OF THE BOARD – Laid over to September 13, 2011, at 10 A.M., for continued hearing.

742-70-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 830 Bay Street, LLC, owner.

SUBJECT – Application May 27, 2011 – Extension of Term of a Variance (§72-21) for the continued operation of an automotive service station which expired on May 18, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on February 26, 2009 and waiver of the rules. C1-1/R3-2 zoning district.

PREMISES AFFECTED – 830 Bay Street, southwest corner of Bay Street and Vanderbilt Avenue, Block 2836, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to September 13, 2011, at 10 A.M., for continued hearing.

93-95-BZ

APPLICANT – Akerman Senterfeit, for 149-58 Realty Company, owner.

SUBJECT – Application April 18, 2011 – Extension of Term of a Variance (§72-21) for the continued operation of a (UG 6a) eating and drinking establishment and (UG 9) catering establishment which expired on June 10, 2007 and waiver of the rules. R3A zoning district.

PREMISES AFFECTED – 149-56/58 Cross Island Parkway, between 149th and 150th Streets, Block 4662, Lot 36 & 38, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Jessica Loeser.

ACTION OF THE BOARD – Laid over to August 23, 2011, at 10 A.M., for continued hearing.

118-95-BZ

APPLICANT – Carl A Sulfaro, for White Castle System, Incorporated, owner.

SUBJECT – Application April 11, 2011 – Extension of Term of a previously granted Special Permit (§73-243) for the continued operation of a drive-thru facility at an eating and drinking establishment (*White Castle*) which expires on July 25, 2011; Extension of Time to obtain a Certificate of

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Occupancy which expired on May 22, 2008; Waiver of the rules. C1-2/R6 zoning district.

PREMISES AFFECTED – 89-03 57th Avenue, southeast corner of Queens Boulevard and 57th Avenue, Block 1845, Lot 45, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to September 13, 2011, at 10 A.M., for continued hearing.

172-96-BZ

APPLICANT – Law Office of Mitchell Ross, for Don Mitchell, owner; D/B/A Mitchell Iron Works, lessee.

SUBJECT – Application June 29, 2011 – Extension of Time to obtain a Certificate of Occupancy for an existing (UG 16) welding shop which expired on May 17, 2010; Waiver of the Rules. C1-3/R6 zoning district.

PREMISES AFFECTED – 597/599 Marcy Avenue, southeast corner of March and Vernon Avenue, Block 1759, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to August 16, 2011, at 10 A.M., for postponed hearing.

51-07-BZ

APPLICANT – Sheldon Lobel, P.C., for 70-50 Kissena Boulevard LLC, owner.

SUBJECT – Application May 26, 2011 – Amendment to a Variance (§72-21) to legalize the change of use from a (UG6) one-story retail building to a (UG3) community facility with changes to the exterior façade and interior layout. R4 zoning district.

PREMISES AFFECTED – 70-44/52 Kissena Boulevard, southeast corner of 70th Road and Kissena Boulevard, Block 6656, Lot 52, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to September 13, 2011, at 10 A.M., for continued hearing.

APPEALS CALENDAR

52-11-A

APPLICANT – New York City Economic Development Corporation, for Department of Small Business Services, owner.

SUBJECT – Application March 30, 2011 – Variance pursuant to NYC Building Code (Appendix G, Section G304.1.2) to allow for a portion of a structure to be located below a flood zone. C2-8 zoning district.

PREMISES AFFECTED – South Street & John Street, East South Street, at John Street, under the FDR Drive. Block

73, Lots 2 & 8. Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Small Business Services, dated June 1, 2011, acting on Application No. 20110686, reads, in pertinent part:

“The design of the Pavilion does not comply with Section G304.1.2 of the NYC Building Code, because the lowest floor level is below the Base Flood Elevation;” and

WHEREAS, this is an administrative appeal filed pursuant to Section 666(7) of the New York City Charter by the NYC Economic Development Corporation (“EDC”) and Appendix G, Section BC G107 of the New York City Administrative Code (the “Building Code”) to permit a proposed pavilion building in a flood hazard area which does not comply with floodproofing requirements of Appendix G, Section G304.1.2 of the Building Code; and

WHEREAS, Section 666(c) of the New York City Charter authorizes the Board of Standards and Appeals to rule upon any decision regarding the Building Code issued by the Commissioner of the Department of Ports and Trade (now the Department of Small Business Services) in relation to structures on waterfront property; and

WHEREAS, a public hearing was held on this application on July 12, 2011, after due notice by publication in *The City Record*, and then to decision on July 26, 2011; and

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

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

WHEREAS, the subject site is located underneath the FDR Drive at the corner of South Street and John Street, along the East River waterfront; and

WHEREAS, the subject site is part of the two-mile East River Waterfront Esplanade proposed by the City of New York for Manhattan’s East Side from the Battery Maritime Building to Pier 35, which will include five leasable pavilion buildings, as well as furniture, plantings, lighting, and the rehabilitation of two piers; and

WHEREAS, the subject site is proposed to be occupied by a pavilion which will house park utilities, leasable bicycle storage space, and public restrooms (the “John Street Service Building” and “the building”); and

WHEREAS, the building is proposed to have a floor area of approximately 1,045 sq. ft.; and

WHEREAS, the building is proposed to be located beneath the deck of the FDR Drive; and

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WHEREAS, EDC states that the subject site is located within a Special Flood Hazard Area as determined by the Federal Emergency Management Agency (“FEMA”), as indicated on the Flood Insurance Rate Maps for the City of New York; and

WHEREAS, Appendix G, Section G304 of the Building Code establishes general limitations on occupancy and construction within Special Flood Hazard Areas; and

WHEREAS, specifically, Section G304.1.2 requires that nonresidential buildings comply with either an “elevation option,” in which the lowest floor is elevated at or above the design flood elevation, or a “dry floodproofing option,” in which the building is made water-tight to a level at or above the design flood elevation; and

WHEREAS, the applicant states that the restrooms and bicycle storage portions of the proposed John Street Service Building are below the base flood elevation and do not use dry floodproofed construction; and

WHEREAS, the instant appeal was thus filed seeking relief from Appendix G, Section G304.1.2 of the Building Code; and

WHEREAS, under Building Code Appendix G Section G107.2.3, the Board may grant a variance to the provisions of Section G304 upon finding that: (1) the proposed construction is located on a tax lot no larger than one-half acre in size, and where the tax lot is larger than one-half acre in size, the technical justification required for the variance increases with the lot size; (2) there is good and sufficient cause for the variance; (3) a denial of the variance would result in exceptional hardship to the applicant; (4) the grant of the variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws or ordinances; burden the public, expose it to harm, or conflict with existing laws or ordinances; and (5) the variance is the minimum necessary, considering the flood hazard, to afford relief to the applicant; and

WHEREAS, with respect to the first finding, the applicant states that the John Street Service Building is proposed on a tax lot that is greater than one-half acre in size; however, the applicant represents that the site has a number of unique conditions that limit the options for locating the pavilion; and

WHEREAS, specifically, the applicant states that the John Street Service Building services the utility needs of both Pier 15 and the Maiden Lane Pavilion, and therefore must remain in close proximity to these sites; and

WHEREAS, the applicant further states that the City’s objective is to maintain a minimum open circulation path of 20 feet at the water’s edge, and since the entire East River Esplanade project is bracketed by South Street to the west and the East River to the east, the clearance mandate further limits the availability of alternative sites for the John Street Service Building; and

WHEREAS, the Board therefore finds that the location of the proposed construction on a tax lot greater than one-half acre in size is justified based on the unique conditions

that limit the options for locating the pavilion; and

WHEREAS, with respect to the second variance finding, the applicant states that the John Street Service Building is a necessary component to the East River Waterfront Esplanade which serves a public service by providing restrooms for visitors to the esplanade, and provides most of the utility needs to the revenue-generating pavilions at the south end of the project, which supports long-term park maintenance; and

WHEREAS, the applicant further states that the proposed bicycle storage provides the public with an active recreational use and will enhance visitors’ overall experience at the park; and

WHEREAS, the applicant states that constructing the building without the variance would require the construction of a series of ramps and stairs connected to the adjoining esplanade walkway to make the restrooms and bicycle storage accessible; and

WHEREAS, the applicant represents that, given the narrow width of the subject site, these stairs and ramps would be a major obstacle that would intrude into the primary circulation path, as well as being economically infeasible to construct and highly detrimental to the design of the building; and

WHEREAS, the Board finds that the applicant has established good and sufficient cause for the variance to allow construction of the building below the mandated flood elevation; and

WHEREAS, the applicant states that the failure to grant the variance will result in exceptional hardship; and

WHEREAS, as discussed above, pursuant to Appendix G Section G304.1.2, construction of the building must comply with either the elevation option or the dry waterproofing option; and

WHEREAS, the applicant states that compliance with the elevation option would require: (1) additional ramping and a raised deck that matches the design of the esplanade project; (2) 40 cubic yards of reinforced ramp, steps and platforms; (3) engineered fill directly under and around the restroom to raise its finish floor elevation, adding approximately 74 cubic yards of structural fill; and (4) additional railing at the front ramp/stairs; and

WHEREAS, based upon the above, the applicant represents that compliance with the elevation option would result in a 46 percent cost increase (\$278,765) to the project, not including design fees and the cost of delays, which would render both the bicycle storage and public restrooms portion of the John Street Service Building infeasible; and

WHEREAS, the applicant states that compliance with the dry floodproofing option would require: (1) manually installed temporary flood shields consisting of a series of stainless steel base plates mounted to an enlarged foundation around the entire perimeter of the building; (2) storage of the flood shields at the site, which has minimal existing storage space; (3) dedication of 139 sq. ft. of elevated interior building space to support fire and emergency personnel during a flood; (4) the construction of a total of four entrances to the building; (5) emergency access at or above

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the Design Flood Elevation with steps both interior and exterior for fire department and emergency services to enter the building over the dry floodproofing, which would eliminate the bicycle storage component of the project entirely; and

WHEREAS, based upon the above, the applicant represents that compliance with the dry floodproofing option would result in a 22 percent cost increase (\$134,000) to the project, and would eliminate the possibility of adding leasable bicycle storage space to the site; and

WHEREAS, the Board finds that the applicant has established that failure to grant the variance will result in exceptional hardship; and

WHEREAS, with respect to the fourth finding to be made by the Board, the applicant represents that the grant of the variance would not result in: increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws or ordinances; and

WHEREAS, the applicant states that the variance will not result in increased flood heights because the proposed building is small compared to the immediate esplanade area of 94,000 sq. ft. and the adjoining streets and, therefore, the impact of the variance on a flood height would be insignificant; and

WHEREAS, the applicant further states that the variance will not result in additional threats to public safety or life because all critical building elements that could be damaged during flooding will be raised above the base flood elevation, and items that could otherwise float and cause damage will be secured; and

WHEREAS, the applicant further states that all building utilities will either be raised out of the base flood elevation or designed according to the American Society of Civil Engineers ("ASCE") 24 Standards for Flood Resistant Design and Construction to prevent flood waters from entering or accumulating within the utility; and

WHEREAS, the applicant states that the variance would result in reduced public expense because costly ramping and sloping of the paved surfaces in the vicinity will be avoided; and

WHEREAS, the applicant states that the variance would not result in any nuisance, fraud on or victimization of the public, and would conflict with no local law or ordinances, other than the Building Code; and

WHEREAS, based on the small size of the John Street Service Building as compared to the immediate esplanade area and the adjoining streets, adherence of the building design to ASCE wet floodproofing standards, and the raising of utilities and large objects out of the flood plane, the Board finds that the proposed variance to Appendix G Section G304.1.2 will not result in increased flood heights or additional threats to public safety or life; and

WHEREAS, the Board finds that the variance will not result in extraordinary public expense, nuisance, fraud on or victimization of the public, and would conflict with no local law or ordinances, other than the Building Code; and

WHEREAS, the applicant states that the variance is

the minimum necessary to afford relief because the building will be designed to allow the water to enter and exit without damage, and the building systems and finishes will be chosen to ensure flood resistant standards, and where applicable, the design will generally follow the National Flood Insurance Program's Wet Floodproofing Requirements approved by FEMA or ASCE 24 Standards for Flood Resistant Design and Construction; and

WHEREAS, the Board finds that, based on the applicant's representations, the variance is the minimum necessary to afford relief; and

WHEREAS, in addition to the specific findings the Board must make pursuant to Appendix G Section G107.2.3, the Board must also evaluate the affect of the proposed variance on the following factors: (1) the danger that material and debris may be swept onto other lands resulting in damage or injury; (2) the danger to life or property due to flooding or erosion damage; (3) the susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners; (4) the importance of the services provided by the proposed development to the community; (5) the availability of alternative locations for the proposed development that are not subject to flooding or erosion; (6) the relationship of the proposed development to comprehensive plan and flood plain management program for that area; (7) the safety of access to the property in times of flood for ordinary and emergency vehicles; (8) the expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and (9) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges; and

WHEREAS, the applicant represents that the proposed variance would create no danger of damage or injury to other properties due to flooding or from materials or debris swept on to them because the building is designed to withstand flooding, with water being able to enter and exit the building, and because large equipment, including all equipment in the bicycle storage portion of the building, will be raised above the base flood elevation or secured to prevent floating away and causing damage; and

WHEREAS, the applicant further represents that the proposed variance would not increase danger to life or property due to flooding because the building will be vacated upon notice of a storm, it will be designed to allow the water to enter and exit without causing damage, the building systems and finishes will be determined upon a technical review by the design team to ensure flood resistant standards, and the building electrical and mechanical systems will be designed to survive the flooding, with equipment either raised above the maximum flood elevation or designed to withstand occasional flooding and not allow water to accumulate; and

WHEREAS, the applicant states that flood damage to the proposed development and its contents would be limited

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because the project requires that critical building elements that could be damaged during flooding are raised above the base flood elevation, and that those elements in the building that could float and cause damage are secured, thereby reducing the impact of potential flooding; and

WHEREAS, the applicant states that the proposed building is a necessary element of a waterfront plan that will service some of the project's signature destinations along the esplanade, and will provide an amenity for visitors in the form of bicycle storage and a convenience for visitors in the form of public restrooms, which will enhance the overall experience of the park; and

WHEREAS, the applicant further states that any unanticipated disadvantage posed by the waiver would be far outweighed by the importance of the services provided by the proposed development to the community; and

WHEREAS, the applicant represents that any alternate location would require the same variance as the proposed site because the entire tax lot is below the design flood elevation; and

WHEREAS, the applicant states that because the floor area of the proposed building is small in relation to the total area of the esplanade and streets around it, the impact of the variance on the comprehensive plan and flood plain management program for that area would be insignificant; and

WHEREAS, the applicant states that the safety of access to the property in times of flood for ordinary and emergency vehicles will not be compromised by the variance because direct access to the site from the adjacent South Street would be unchanged; and .

WHEREAS, the applicant states that wave action is not applicable to the subject site as the John Street Service Building is within a FEMA AE Zone – a flood hazard area not subject to high velocity wave action; and

WHEREAS, the applicant further states that analysis has not been performed regarding velocity, duration, rate of rise and debris and sediment transport of floodwaters because the consequences of all these factors on the subject site would be unaffected by the variance, as the amount of proposed floor area is small in relation to the total area of esplanade and surrounding streets; and

WHEREAS, the applicant states that the cost to provide governmental services during and after flood conditions will be essentially the same as without the variance, as the building electrical and mechanical systems will be designed to survive the flooding, and because underground public utilities will not be affected by the variance; and

WHEREAS, the Fire Department has reviewed the plans and associated documents and has no objections to the proposed project; and

WHEREAS, based on the above, the Board has determined that the evidence in the record supports the findings required to be made pursuant to Appendix G § BC G107 of the Building Code and Section 666(7) of the New York City Charter.

Therefore it is Resolved that the application of the

Commissioner of the NYC Economic Development Corporation to permit construction of a one-story pavilion building in a flood hazard area contrary to the floodproofing requirements of Appendix G, Section G304.1.2 of the Building Code is granted; *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 16, 2011" four (4) sheets; and *on further condition*:

THAT the design provides for entry and exit of flood waters and equalization of hydrostatic flood forces in accordance with Section 2.6.2 of "Flood Resistant Design and Construction, SEI/ASCE 24-05" (2006), published by the American Society of Civil Engineers ("SEI/ASCE 24-05");

THAT heating, ventilation, air conditioning, and plumbing equipment shall be installed above the base flood elevation;

THAT all materials and finishes shall comply with flood resistant standards set forth in Section 5 of SEI/ASCE 24-05;

THAT the foregoing conditions shall be subject to the review and approval of the Department of Small Business Services;

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

THAT the Department of Small Business Services must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 26, 2011.

176-10-A

APPLICANT – Sheldon Lobel, P.C., for LIV Realty LLC, owner.

SUBJECT – Application September 8, 2010 – Proposed construction of a residential building not fronting a mapped street, contrary to General City Law Section 36. R6 zoning District.

PREMISES AFFECTED – 62 Brighton 2nd Place, east side, Block 8662, Lot 155, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Richard Lobel.

For Administration: Anthony Scaduto, Fire Department.

ACTION OF THE BOARD – Laid over to August 23, 2011, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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REGULAR MEETING TUESDAY AFTERNOON, JULY 26, 2011 1:30 P.M.

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

ZONING CALENDAR

24-09-BZ

CEQR #09-BSA-071K

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

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

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

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Jordan Most.

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 6, 2009, acting on Department of
Buildings Application No. 410490724, reads in pertinent part:

1. Proposed floor area ratio for the adult care facility
located in an R3-2 zoning district exceeds the
limits set forth in ZR §...24-11.
2. Proposed front yard does not meet the
requirements set forth in ZR § 24-34.
3. Proposed lot coverage exceeds the maximum set
forth in ZR § 24-11.
4. Proposed wall height exceeded and sky exposure
lane penetrated as set forth in ZR §24-521.
5. Proposed rear yard does not meet the minimum
requirements set forth in ZR § 24-382; and

WHEREAS, this is an application under ZR § 72-21, to
permit the horizontal enlargement of an existing four-story
(including basement) nursing care facility (Use Group 3),
which does not comply with the required floor area ratio
("FAR"), front yard depth, lot coverage, wall height and sky
exposure plane, and rear yard, contrary to ZR §§ 24-11, 24-34,
24-521, and 24-382; 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 September 21,
2010, November 16, 2010, March 15, 2011, and June 7, 2011,
and then to decision on July 26, 2011; and

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

WHEREAS, this application is brought on behalf of
Meadow Park Rehabilitation and Health Care Center
("Meadow Park"); and

WHEREAS, Community Board 8, Queens, recommends
approval of the proposed application, with the condition that an
enclosed refrigerator type garbage compactor be installed; and

WHEREAS, Council Member James F. Gennaro
recommends approval of this application; and

WHEREAS, certain members of the community
provided testimony in opposition to this application, citing
concerns with the impact of the proposed enlargement on the
immediately adjacent homes and the surrounding
neighborhood character; and

WHEREAS, the site is located on a corner through lot
bounded by 78th Avenue to the north, 164th Street to the east,
and 78th Road to the west, within an R3-2 zoning district; and

WHEREAS, the site consists of five tax lots (Lots 9, 11,
12, 23 and 24) with approximately 200 feet of frontage along
164th Street, a depth of 157 feet along 78th Avenue, a depth of
143 feet along 78th Road, and a total lot area of approximately
29,933 sq. ft.; and

WHEREAS, the applicant notes that the portion of the
site within 100 feet of the corner formed by 164th Street, 78th
Road and 78th Avenue is subject to corner lot regulations, while
the remainder of the site is subject to through lot regulations;
and

WHEREAS, the site is currently occupied by a pre-
existing non-complying four-story (including basement) 31,580
sq. ft. nursing care facility with 143 beds on Lot 12, while Lots
11, 23 and 24 are occupied by two-and-one-half story, three-
story, and one-story buildings, respectively, each of which is
used by Meadow Park for storage and other related services,
and Lot 9 is occupied by a two-and-one-half story residential
building; and

WHEREAS, the applicant notes that Lot 12 has a lot area
of 17,933 sq. ft., and that because the existing facility exists
solely on Lot 12, its 31,580 sq. ft. of floor area equates to an
FAR of 1.76; and

WHEREAS, the applicant further notes that the existing
facility on Lot 12 has the following legal, pre-existing non-
compliances: an FAR of 1.76, a front yard with a depth of 9'-
7" along 164th Street and 5'-0" along 78th Avenue, and a wall
height of 34'-8"; and

WHEREAS, the applicant proposes to demolish the
buildings located on Lots 9, 11, 23 and 24 in order to
accommodate the proposed enlargement of the nursing care
facility; and

WHEREAS, the applicant proposes to construct a four-
story (including basement) enlargement to the existing nursing

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care facility on Lot 12, which will result in the following non-complying parameters: a total floor area of 60,366 sq. ft. and an FAR of 2.02 (a total floor area of 14,966.5 sq. ft. and an FAR of 0.50 is the maximum permitted); the extension of the existing non-complying front yard of 9'-7" along 164th Street (a front yard with a minimum depth of 15'-0" is required); lot coverage of 73 percent for the corner lot portion of the site (a maximum lot coverage of 60 percent is permitted for corner lots); the extension of the existing non-complying wall height of 34'-8" (a maximum wall height of 25'-0" is permitted); intrusion into the sky exposure plane; and intrusion into the required rear yard equivalent for the through lot portion of the site; and

WHEREAS, the applicant notes that, pursuant to ZR § 22-42, any enlargement to a nursing home or health related facility in a residential district requires certification from the City Planning Commission in order to determine whether a special permit is required under ZR § 74-90 to allow the enlargement; and

WHEREAS, the applicant initially proposed to construct an enlargement with a total floor area of 61,981 sq. ft. (2.07 FAR), a wall height of 38'-4", a side yard with a width of 12'-2" along the 78th Road frontage, and a side yard with a width of 13'-5" along the 78th Avenue frontage; and

WHEREAS, in response to concerns raised by the Community Board and Queens Borough President, the applicant revised its plans to the current proposal with a floor area of 60,366 sq. ft. (2.02 FAR), a wall height of 34'-8", a side yard with a width of 18'-0" along the 78th Road frontage, and a side yard with a width of 18'-10" along the 78th Avenue frontage; and

WHEREAS, because relief from the bulk requirements of the R3-2 zoning district is necessary, the applicant requests the subject variance; 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 existing nursing care facility and adjacent buildings are obsolete and the existing non-complying facility is overbuilt; (2) the existing facility's inability to conform to contemporary New York State Department of Health ("DOH") standards for nursing care facilities or attract the appropriate patient mix to keep Meadow Park financially viable under the current conditions at the site; and (3) the need for environmental remediation; and

WHEREAS, as to the obsolescence of the building, the applicant states that the existing four-story (including basement) nursing care facility was constructed in 1956, and is a legal pre-existing building with non-compliances related to the underlying zoning regulations as well as current DOH regulations related to minimum standards of care at nursing care facilities; and

WHEREAS, the applicant states that the existing facility provides only 221 sq. ft. of space per bed, which is uniquely bed-dense as compared to other facilities in Queens, and renders the existing facility obsolete for modern nursing care

facilities; and

WHEREAS, specifically, the applicant submitted tables reflecting that of the 56 nursing care facilities in Queens, only two had fewer square feet per bed (211 sq. ft. and 214 sq. ft. per bed, respectively) than Meadow Park at 221 sq. ft. per bed, while the Queens average was 428 sq. ft. per bed, or an adjusted 367 sq. ft. per bed; and

WHEREAS, therefore, the existing facility is 40 percent below the county-wide mean square footage per bed, reflecting that from a privacy and crowding perspective, Meadow Park is among the least desirable nursing care facilities in Queens County; and

WHEREAS, the applicant notes that the proposed enlargement would not increase the number of beds at Meadow Park, which would remain at 143, but would merely increase the amount of space provided at the site per resident, from 221 sq. ft. per bed, to 422 sq. ft. per bed, in order to comply with current DOH regulations and remain competitive within the health care field; and

WHEREAS, the applicant represents that the proposed bed density of 422 sq. ft. per bed remains compact in light of DOH's desired baseline bed density of 625 sq. ft. per bed, and the proposed enlargement is as small as possible while still achieving the minimum compliance with DOH regulations; and

WHEREAS, the applicant states that, due to the lack of available space on the site, Meadow Park currently uses the buildings located on Lots 11, 23 and 24 for the storage of supplies and medical records, and as a bookkeeping office; and

WHEREAS, the applicant further states that Meadow Park utilizes a detached garage between Lots 23 and 24, as well as nine storage containers located behind the existing facility to store other necessary supplies and equipment for the nursing care facility; and

WHEREAS, the applicant represents that the bookkeeping office and the various storage spaces are intended to be located within the Meadow Park facility, but due to the obsolete nature of the existing building and the resulting space limitations, Meadow Park has been forced to use these peripheral spaces for various operational uses; and

WHEREAS, the applicant states that the existing facility, which occupies 31,580 sq. ft. of floor area (1.76 FAR) on a lot (Lot 12) with a total lot area of 17,933 sq. ft., is significantly overbuilt and that even with the addition of 12,000 sq. ft. of lot area from Lots 9, 11, 23 and 24, the existing facility would still have a non-complying FAR of 1.06 even if it was the only structure on the zoning lot; and

WHEREAS, therefore, the applicant states that even with the addition of 12,000 sq. ft. of lot area, Meadow Park is unable to construct any enlargement to the existing facility that would comply with the underlying zoning regulations; and

WHEREAS, the applicant notes that approximately 14,500 sq. ft. of floor area is proposed on Lots 9, 11, 23 and 24, which constitutes only 0.48 FAR with regard to the entire zoning lot, or 1.21 FAR with regard to the aggregated four small parcels with a lot area of 12,000 sq. ft.; and

WHEREAS, as to the existing facility's inability to comply with DOH regulations, the applicant notes that DOH regulates (1) the level of care provided by nursing homes, and

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(2) the proposed construction of a new facility, or enlargement or modification of an existing facility; and

WHEREAS, the applicant represents that the inability of the existing facility to comply with current DOH requirements and market conditions have rendered it obsolete; and

WHEREAS, specifically, the applicant submitted a table reflecting that the existing facility has the following deficiencies based on DOH regulations: (1) toilet rooms that are not ADA accessible; (2) there are no single rooms; (3) typical toilet rooms are shared between two rooms and a total of between two and six patients; (4) 81 percent of the rooms exceed the maximum room capacity of two people; (5) there is no staff lounge space, employee facilities, or bathrooms; (6) the facility only provides approximately 16 sq. ft. of resident dining space per resident, rather than the minimum required ratio of 28 sq. ft. per resident; (7) there is no separate room provided for residents' hair care and grooming needs; (8) the existing elevator is substandard and the facility lacks a required second elevator; (9) the corridors have a substandard width of six feet; and

WHEREAS, in addition to the aforementioned code violations, the applicant states that the following marketability deficiencies further limit the functionality of the existing facility: (1) overcrowded bedrooms and bathrooms; (2) no space for in-house laundry or linen storage, necessitating the outsourcing of laundry which is more time-consuming and expensive; (3) lack of common space, limiting the recreational programming provided by Meadow Park; (4) inadequate in-building storage space, resulting in the need to install nine inefficient storage bins behind the facility; (5) off-site bookkeeping; and (6) a substandard sized rehabilitation gymnasium; and

WHEREAS, the applicant notes that the proposed enlargement was approved by DOH as well as the State Hospital Review and Planning Council ("SHRPC"), which is empowered by the State's Public Health Law to make recommendations to the Commissioner of Health regarding major facility construction projects, such as the subject proposal by Meadow Park; and

WHEREAS, the applicant notes that, in issuing its approval of the proposed enlargement, the SHRPC stated that "the existing 4-level building is obsolete for current use as a residential health care facility as currently configured and in need of major renovations or replacement. The need for major renovation or replacement was validated by a field visit by Department of Health Staff;" and

WHEREAS, the applicant represents that Meadow Park's eligibility under the Medicaid and Medicare reimbursement system is another factor which makes the existing facility obsolete; and

WHEREAS, the applicant states that facilities like Meadow Park rely on more than 80 percent of their revenue from Medicaid and Medicare and, as such, eligibility for those funds comes with strict monitoring by the authorized governing body, which in New York State is DOH; and

WHEREAS, the applicant further states that every Medicaid dollar received by a participating facility is broken down into: (1) a nursing care, or direct, component; (2) a

maintenance, or indirect, component; (3) a non-comparable component (for unique services provided at a given facility); and (4) a capital component (for major repairs, enlargements, and debt service); and

WHEREAS, the applicant states that since proprietary nursing homes rely heavily on public funding sources, DOH imposes strict guidelines on the enlargement of existing non-compliant structures, and is guided by two principles: (1) an enlargement will not be permitted that creates two distinct levels of care within a facility; and (2) when making any major alteration to a facility, complete compliance with contemporary regulations is required; and

WHEREAS, the applicant represents that, since the capital component piece of the Medicaid dollar partly reimburses the operator for facility enlargement, modernization, and the financing thereof, the State will only authorize the use of capital component monies for facilities brought into compliance with contemporary regulations; and

WHEREAS, accordingly, the applicant states that the State will not authorize use of public funds to support the enlargement and upgrade of a facility unless it fully complies with current regulations, thereby making such facility compliance an all-or-nothing proposition from DOH's perspective; and

WHEREAS, the applicant states that if the present Meadow Park facility were forced to comply with current DOH requirements, the building would have to be completely reconfigured and the number of beds would have to be reduced from the current 143 to approximately 78, which would render the facility unsustainable; and

WHEREAS, the applicant states that the proposed enlargement is also necessary to ensure that the facility attracts patients with a higher acuity level (such as short term care and rehabilitation care), who are said to have a higher case mix index ("CMI"), and to attract an appropriate blend of Medicare and Medicaid patients, because both high CMI patients and Medicare patients come with a higher level of reimbursement; and

WHEREAS, the applicant represents that Medicare patients and high CMI patients increasingly seek modern facilities and private and semi-private rooms, and as a result Meadow Park has experienced a decline in income of approximately 40 percent between 2002 and 2009, due to its inability to retain Medicare patients and high CMI patients at the existing facility; and

WHEREAS, accordingly, the applicant represents that the proposed enlargement is necessary to prevent (1) a trending decline of higher CMI patients, and (2) an unfavorable Medicaid/Medicare blend; and

WHEREAS, therefore, the applicant represents that the requested waivers are necessary in order to allow Meadow Park to bring the existing facility into compliance with the applicable DOH regulations regarding nursing care facilities, improve Meadow Park's ability to compete in the health care service sector, and improve the level of care available to patients; and

WHEREAS, as to the environmental conditions on the site, the applicant states that a Phase II Site Investigation was

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conducted on the site which revealed the presence of certain metals and soil gases, as well as one definite and a second likely underground storage tank; and

WHEREAS, the applicant states that, as a result of these environmental issues, clean fill will need to be brought in and installed below the cellar slab, clean fill and top soil will be needed for all non-pervious and landscaped areas, and a vapor barrier will be required beneath the foundation or cellar floor slab, along with a vapor migration system; and

WHEREAS, the applicant represents that the construction related remediation and site preparation costs that result from these environmental issues present construction related remediation and site preparation costs of approximately \$580,000; and

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

WHEREAS, the applicant submitted a feasibility study which analyzed the following scenarios: (1) an as-is scenario with the existing conditions at the building; (2) a renovated existing building scenario that complies with DOH regulations and results in a facility with 78 beds; (3) a lesser variance alternative that complies with DOH regulations and results in a facility with 107 beds; and (4) the proposed enlarged facility that complies with DOH regulations and maintains the current 143 bed count; and

WHEREAS, the study concluded that the existing scenario and lesser variance alternatives would not result in a reasonable return, but that the proposed enlargement would realize a reasonable return; and

WHEREAS, based upon the above, the Board determined that because of the subject site'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 subject building and use has existed on the site for more than 50 years; and

WHEREAS, the applicant further states that the proposed enlargement will merely extend the existing four-story (including basement) building along the 78th Avenue and 78th Road frontages, and the enlarged portions of the building are designed to replicate the massing, facades, building height, and yards of the existing building; and

WHEREAS, the applicant submitted a radius diagram which reflects that a seven-story, 114-unit co-op building, with professional offices and parking for approximately 50 vehicles is located across 78th Road from the site; and

WHEREAS, the applicant states that the co-op building is located on a similarly sized lot as the subject site but, with a floor area of approximately 98,000 sq. ft. (3.47 FAR), and is a significantly taller and larger building than the proposed facility; and

WHEREAS, the radius diagram submitted by the applicant also reflects that there is a warehouse building located one block from the site on 77th Road, which is an apparent two-story building with nearly 100 percent lot coverage; and

WHEREAS, the applicant notes that the proposed enlargement of the existing facility from 1.76 FAR on Lot 12 (17,933 sq. ft. of lot area), to 2.02 FAR across the larger site (29,932 sq. ft. of lot area) results in a significant decrease in the bed-density of the facility, since the bed count of 143 is proposed to remain the same; and

WHEREAS, the applicant further states that Lot 23 is currently occupied by a three-story residential building of approximately the same height as the existing nursing care facility; therefore, replacing this residential building for a segment of the proposed enlarged facility will not have a significant impact on the surrounding neighborhood; and

WHEREAS, the applicant states that the proposed side yards along 78th Avenue and 78th Road are each over 18 feet, which constitutes more than half of the 30-ft. width of the underlying existing tax lots on which they are located (Lots 9 and 24); and

WHEREAS, the applicant further states that Lots 9 and 24 are currently occupied by homes with side yards ranging from two feet to eight feet in width; therefore, under the proposed enlargement the distance between the adjacent homes and the proposed facility will be greater than it presently is between the adjacent homes and the Meadow Park owned houses currently located on Lots 9 and 24; and

WHEREAS, the applicant submitted a landscaping plan reflecting plantings and a residential-type fence buffering the side lot line along the 78th Road frontage, and a residential-type fence buffering the side lot line along the 78th Avenue frontage; and

WHEREAS, the applicant states that the proposed enlargement will provide 15 off-street parking spaces, which will improve the current traffic and parking conditions in the surrounding neighborhood, since the existing facility does not provide any parking spaces and the 15 proposed spaces will service a facility that maintains the existing 143 bed count; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant provided revised plans reflecting that a new trash compactor will be stored in a basement level enclosure area which is separated from the parking area by a retaining wall, has an opaque gate at the front, and is partially covered by the proposed enlargement; and

WHEREAS, the applicant states that garbage collection will take place approximately once every two weeks, at 7:30 a.m. or later; 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; and

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to bring the existing facility into compliance with DOH regulations for the existing

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143 beds; and

WHEREAS, as noted above, the applicant initially proposed to construct an enlargement with a total floor area of 61,981 sq. ft. (2.07 FAR), a wall height of 38'-4", a side yard with a width of 12'-2" along the 78th Road frontage, and a side yard with a width of 13'-5" along the 78th Avenue frontage; and

WHEREAS, during the course of the hearing process, the applicant revised its plans to the current proposal with a floor area of 60,366 sq. ft. (2.02 FAR), a wall height of 34'-8", a side yard with a width of 18'-0" along the 78th Road frontage, and a side yard with a width of 18'-10" along the 78th Avenue frontage; 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; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 09-BSA-071K dated January 7, 2009; and

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

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

WHEREAS, DEP accepts the September 2010 Remedial Action Plan and the Construction Health & Safety Plan; and

WHEREAS, DEP requested that a Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project; 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 horizontal enlargement of an

existing four-story (including basement) nursing care facility (Use Group 3), which does not comply with the required FAR, front yard depth, lot coverage, wall height and sky exposure plane, and rear yard, contrary to ZR §§ 24-11, 24-34, 24-521, and 24-382; *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 28, 2011" one – (1) sheet and "Received July 20, 2011" – fourteen (14) sheets; and *on further condition*;

THAT the following shall be the bulk parameters of the building: 60,366 sq. ft. of floor area (2.02 FAR); a front yard of 9'-7" along 164th Street; lot coverage of 73 percent for the corner lot portion of the site; a wall height of 34'-8"; intrusion into the sky exposure plane; and intrusion into the required rear yard equivalent for the through lot portion of the site, as indicated on the BSA-approved plans;

THAT prior to the issuance of any DOB permits, the applicant shall obtain a certification from the City Planning Commission pursuant to ZR § 22-42;

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

THAT all garbage shall remain within the designated trash compactor area until pickup, which shall occur no earlier than 7:30 a.m.;

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 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, July 26, 2011.

56-10-BZ

APPLICANT – T-Mobile Northeast LLC, for Luca & Maryann Guglielmo, owners.

SUBJECT – Application April 19, 2010 – Variance (§72-21) to construct a telecommunications facility on the rooftop of an existing building. The proposal is contrary to perimeter wall height (§33-431) sky exposure plane (§33-431) and front yard (§23-45). C1-2/R3-2 zoning district.

PREMISES AFFECTED – 3424 Quentin Road, Quentin Road and East 35th Street, Block 7717, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

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Commissioner Montanez.....5
Negative:.....0
Adopted by the Board of Standards and Appeals, July
26, 2011.

95-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for
Raymond Kohanbash, owner.

SUBJECT – Application May 27, 2010 – Special Permit
(\$73-622) for the enlargement of an existing single family
home contrary to floor area, open space and lot coverage
(\$23-141); side yard (§23-461) and less than the required
rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 2216 Quentin Road, south side
of Quentin Road between East 22nd Street and East 23rd
Street, Block 6805, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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 Monta.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough
Commissioner, dated April 27, 2010, acting on Department
of Buildings Application No. 320011492, reads in pertinent
part:

“ZR 23-141: Proposed FAR exceeds permitted 0.5
as per ZR.

ZR 23-461b: Proposed side yard is contrary to ZR
requirements.

ZR 23-47: Proposed rear yard is contrary to ZR
requirements.

ZR 23-141: Proposed plans are contrary to ZR in
that the proposed lot coverage exceeds the max.
permitted lot coverage. (max. 35%)

ZR 23-141: Proposed plans are contrary to ZR in
that the proposed open space is less than the min.
required open space;” and

WHEREAS, this is an application under ZR §§ 73-622
and 73-03, to permit, in an R3-2 zoning district, the
proposed enlargement of a single-family home, which does
not comply with the zoning requirements for floor area ratio
(“FAR”), open space, lot coverage, 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 September 14, 2010 after due notice by
publication in *The City Record*, with continued hearings on
November 23, 2010, January 11, 2011, April 5, 2011, May 10,
2011, June 7, 2011 and July 12, 2011, and then to decision on
July 26, 2011; and

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

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

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

WHEREAS, the subject site is located on the south
side of Quentin Road, between East 22nd Street and East 23rd
Street, within an R3-2 zoning district; and

WHEREAS, the subject site has a total lot area of
4,000 sq. ft., and is occupied by a single-family home with a
floor area of 2,346 sq. ft. (0.59 FAR); and

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

WHEREAS, the applicant seeks an increase in the
floor area from 2,346 sq. ft. (0.59 FAR) to 4,075 sq. ft. (1.0
FAR); the maximum permitted floor area is 2,000 sq. ft.
(0.50 FAR); and

WHEREAS, the applicant proposes to provide 2,157
sq. ft. of open space (2,600 sq. ft. is the minimum required);
and

WHEREAS, the applicant proposes to provide lot
coverage of 46 percent (35 percent is the maximum
permitted); and

WHEREAS, the applicant proposes to maintain the
existing side yard along the eastern lot line with a width of
3’-1” (a minimum width of 5’-0” is required for each side
yard) and to provide a side yard with a width of 8’-1” along
the western lot line; and

WHEREAS, the proposed enlargement will provide a
rear yard with a depth of 24’-0” (a minimum rear yard depth
of 30’-0” is required); and

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

WHEREAS, in response, the applicant submitted revised
plans showing the portions of the existing home, including
floor joists and walls, that are being retained; and

WHEREAS, at hearing, the Board raised concerns about
whether the perimeter wall height and roof line fit within the
permitted building envelope; and

WHEREAS, in response, the applicant submitted revised
plans which reflect a perimeter wall height and roof line that
comply with all zoning requirements; and

WHEREAS, the applicant represents that the proposed
building will not alter the essential character of the
neighborhood, and will not impair the future use or
development of the surrounding area; and

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

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

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

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community; and

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, 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 27, 2011"-(7) sheets; and on further condition:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,075 sq. ft. (1.0 FAR); 2,157 sq. ft. of open space; a side yard with a minimum width of 3'-1" along the eastern lot line; a side yard with a minimum width of 8'-1" along the western lot line; and a rear yard with a minimum depth of 24'-0", as illustrated on the BSA-approved plans;

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

THAT 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, July 26, 2011.

22-11-BZ

CEQR #11-BSA-065K

APPLICANT – Simons & Wright, LLC, for Agama LLC, owner; Vorea Holdings LLC, lessee.

SUBJECT – Application March 1, 2011 – Variance (§72-21) to permit the conversion of a vacant warehouse to a physical culture establishment. R6B zoning district.

PREMISES AFFECTED – 184 North 8th Street, between Driggs and Bedford Avenues, Block 2320, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #1BK

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 February 23, 2011, acting on Department of Buildings Application No. 320275377, reads in pertinent part:

“The proposed use of the building as a martial arts study (physical culture establishment) is not permitted as-of-right in a R6B zoning district and is contrary to Section 22-00 (use) of the Zoning Resolution and requires a variance from the Board of Standards and Appeals”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R6B zoning district, the conversion of a vacant warehouse to a physical culture establishment (PCE), contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on June 21, 2011, after due notice by publication in the *City Record*, and then to decision on July 26, 2011; and

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

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, the site is located on the south side of North 8th Street, between Bedford Avenue and Driggs Avenue, in an R6B zoning district; and

WHEREAS, the subject site has a total lot area of approximately 5,000 sq. ft.; and

WHEREAS, the site is currently improved upon with a vacant two-story warehouse building with 7,200 sq. ft. of floor area; and

WHEREAS, the applicant proposes to convert the existing warehouse building into a PCE; and

WHEREAS, because commercial uses are not permitted in the subject R6B zoning district, and because a special permit pursuant to ZR § 73-36 is not available in the underlying district, the applicant requests a use variance to permit the operation of the proposed PCE at the site; and

WHEREAS, the applicant states that the following is a unique physical condition which creates an unnecessary hardship in developing the site in compliance with applicable regulations: the existing building is obsolete; and

WHEREAS, the applicant states that the subject building was constructed approximately 100 years ago and has operated as a warehouse for approximately 50 years, until the use was discontinued in 2003; and

WHEREAS, the applicant states that the building has remained vacant since the discontinuance of the warehouse use, except for the use of a small portion of the building as storage by the owner; and

WHEREAS, the applicant states that the existing building is obsolete for a conforming residential or community

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facility use because there are no existing windows in the subject building that can be used to provide required light and air; and

WHEREAS, the applicant further states that even if rear windows were installed in the building it would not provide legal habitable windows, because the rear wall of the site is located less than five feet from the rear lot line; and

WHEREAS, the applicant states that in order to convert the building to a conforming use with legal habitable windows, it would require the demolition of the rear thirty feet of the building, the reconstruction of the rear wall, and the complete rebuilding of the front wall to provide windows; and

WHEREAS, the applicant represents that a conforming community facility use of the building would also require major structural alterations to provide necessary amenities because the interior floor plates are bare and do not provide any walls or partitions, the building lacks windows and yards, and the brick façade of the 100-year old building is dilapidated; and

WHEREAS, the applicant states that the existing building is also obsolete for its historical use as a warehouse, as there are no loading docks and the only entrance to the building is by a small front door; and

WHEREAS, the applicant represents that the owner has engaged in a number of unsuccessful marketing efforts to lease the space, and submitted a letter from a real estate broker stating that the property has been listed for the last two years without any interest, primarily due to the obsolescence of the building; and

WHEREAS, the applicant states that the existing building is also unable to support the addition of a third floor to provide additional floor area to accommodate a conforming residential use; and

WHEREAS, in support of this statement, the applicant submitted a report from a structural engineer which states that the existing building does not possess adequate structural capacity to accommodate the construction of a third floor, and it would be more feasible to demolish the existing building and construct a new three-story building; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical condition creates unnecessary hardship and practical difficulty in using the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that because of its unique physical condition, there is no possibility that the development of the property in conformance with the applicable use regulations will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study analyzing the following scenarios: (1) the conversion of the existing building to an as-of-right two-story, four-unit residential building; and (2) the proposed conversion of the existing building to a PCE use; and

WHEREAS, the applicant concluded that only the proposed use would realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject building's unique physical condition, there is no reasonable possibility that development in strict conformance with

applicable use requirements will provide a reasonable return; and

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

WHEREAS, the applicant states that the surrounding area is characterized by a mixture of residential, commercial, industrial, and community facility uses; and

WHEREAS, the applicant submitted a 400-ft. radius diagram which reflects that the midblock portion of North 8th Street between Bedford Avenue and Driggs Avenue is predominantly occupied by three- and four-story residential buildings, but that a significant number of commercial uses are located less than a block in either direction from the site, along both Bedford Avenue and Driggs Avenue; and

WHEREAS, the radius diagram submitted by the applicant further reflects that the adjacent property to the west of the site is occupied by the rear garage door for a warehouse that fronts North 7th Street, and that there are commercial uses spread throughout the surrounding blocks; and

WHEREAS, the applicant represents that the proposed PCE use, which will be operated as a martial arts studio, will be compatible with the neighborhood as it will provide residents with a useful amenity, eliminate a vacant building from the street, and the light foot traffic generated by the use will be spread out over the hours of the operation of the PCE; and

WHEREAS, the applicant notes that the subject site is within the Ombudsman Area of the Greenpoint-Williamsburg Industrial Business Zone ("IBZ"); and

WHEREAS, according to the Mayor's Office of Industrial and Manufacturing Businesses, Industrial Ombudsman Areas are areas located adjacent to IBZs but which reflect a greater mix of uses other than industrial; and

WHEREAS, accordingly, the applicant states that the proposed PCE use fits within the character of the Industrial Ombudsman Area of the Greenpoint-Williamsburg IBZ; and

WHEREAS, the applicant documented that the proposed PCE meets the requirements of the special permit available under ZR § 73-36 for locating PCEs in certain commercial and manufacturing zoning districts; and

WHEREAS, the applicant states that the proposed hours of operation of the PCE are 6:00 a.m. to 10:00 p.m., daily; and

WHEREAS, the applicant has agreed to install a full sprinkler system throughout the building, which will be connected to an approved fire alarm system with smoke detectors, pull stations, and audible and visual alarms connected to a Fire Department central station; and

WHEREAS, the applicant states that noise attenuation will be achieved through the existing building's solid brick construction, the installation of a three-inch sound attenuation blanket in the first and second floor ceilings, and the installation of double-glazed windows; and

WHEREAS, the Department of Investigation performed a background check on the corporate owner and operator of the PCE and the principals thereof, and issued a

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report which the Board has determined to be satisfactory; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the pre-existing unique physical conditions cited above; and

WHEREAS, 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 project is classified as an Unlisted action pursuant to Sections 617.2 of 6NYCRR; 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. 11BSA065K dated April 28, 2011; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, in an R6B zoning district, the conversion of an existing warehouse to a PCE, contrary to ZR § 22-00, *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 12, 2011"- (8) sheets; and *on further condition*:

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

THAT the term of this grant shall be limited to ten years, and shall expire on July 26, 2021, subject to further

renewal;

THAT, the hours of operation for the physical culture establishment shall be limited to 6:00 a.m. until 10:00 p.m., daily;

THAT signage on the site shall comply with C1 district regulations;

THAT the above conditions shall appear on the certificate of occupancy;

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

THAT fire safety measures, including full sprinklering, shall be installed in accordance with the BSA-approved plans;

THAT noise attenuation measures shall be provided in accordance with the BSA-approved plans;

THAT substantial construction shall be completed in accordance with ZR §72-23;

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

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

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

Adopted by the Board of Standards and Appeals, July 26, 2011.

24-11-BZ

APPLICANT – Jay A. Segal, Esq., Greenberg Traurig, LLP, for LaSalle New York City, Inc., owner; WCL Academy of New York LLC, lessee.

SUBJECT – Application March 8, 2011 – Variance (§72-21) to permit the construction of an elevator and vestibule in the courtyard of a school building (*WCL Academy*) contrary to floor area (§24-11), lot coverage (§24-11) and permitted obstruction requirements (§24-51). C6-2A/R8B zoning district.

PREMISES AFFECTED – 44-50 East 2nd Street, north side of East 2nd Street, between First and Second Avenues, Block 444, Lot 59, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Jay Segal.

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 Commissioner, dated March 14, 2011, acting on Department of

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Buildings Application No. 120518797, reads, in pertinent part:

- “1. ZR 24-11. Lot coverage exceeds the 70% allowed.
2. ZR 24-51. Exposure of bulkheads exceeds allowable;” and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R8B zoning district and partially within a C6-2A zoning district, the enlargement of a five- and six-story (including basement) school building (Use Group 3), which is contrary to ZR §§ 24-11 and 24-51; and

WHEREAS, a public hearing was held on this application on June 7, 2011, after due notice by publication in the *City Record*, with a continued hearing on July 12, 2011, and then to July 26, 2011; and

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

WHEREAS, Community Board 3, Manhattan, recommends approval of the application; and

WHEREAS, this application is brought on behalf of WCL Academy (the “School”); and

WHEREAS, the site is located on the northern side of East Second Street, between First Avenue and Second Avenue, partially within an R8B zoning district and partially within a C6-2A zoning district; and

WHEREAS, the site has 100 feet of frontage on East Second Street, a depth ranging from 86 feet to 110.4 feet, and a total lot area of 10,455 sq. ft.; and

WHEREAS, the subject site is currently occupied by a five- and six-story (including basement) school building which was constructed in 1936 (the “Building”), with a floor area of approximately 41,107 sq. ft. (3.93 FAR) and a pre-existing non-complying lot coverage of 82.9 percent; and

WHEREAS, the applicant notes that the Building has two wings: the west wing consists of the five-story portion of the Building located within the C6-2A zoning district, which encompasses the western 25 feet of the lot (the “West Wing”); and the east wing consists of the six-story (including basement) portion of the Building located within the R8B zoning district, which encompasses the eastern 75 feet of the lot (the “East Wing”); and

WHEREAS, the applicant states that the West Wing has a height of approximately 59'-4" with an existing elevator bulkhead that extends an additional 13'-0" to a height of approximately 72'-4", and the East Wing has a height of approximately 72'-6" with an existing stair bulkhead that extends an additional 8'-8" to a height of approximately 81'-2"; and

WHEREAS, the School proposes to construct the following: an elevator and vestibule in the courtyard of the R8B portion of the Building, a wheelchair lift to provide access to the cellar of the East Wing from the first floor, a wheelchair ramp to provide street level access to the East Wing, and a new stair bulkhead to provide a second means of egress for a proposed rooftop green space; and

WHEREAS, the applicant notes that the proposed enlargement will occur entirely within the R8B portion of the

zoning lot; and

WHEREAS, the applicant states that the proposed enlargement requires the construction of a new elevator bulkhead, which extends 25'-8" above the 72'-6" height of the East Wing (to a height of approximately 98'-2"), and a new stair bulkhead, which extends 9'-6" above the 72'-6" height of the East Wing (to a height of approximately 82'-0"); and

WHEREAS, the applicant further states that the construction of the new stair and elevator bulkheads on the roof of the Building, when considered in the aggregate with the existing stair bulkhead on the East Wing, would yield a total net surface area of approximately 369 sq. ft. above the maximum building height of 75 feet, which exceeds the 300 sq. ft. net surface area allowed under the permitted obstruction rules of ZR § 24-51; and

WHEREAS, the applicant states that the proposed construction will result in a floor area of 42,067 sq. ft. (4.02 FAR) (the maximum permitted floor area is 47,254 sq. ft. (4.52 FAR)), a lot coverage of 83.4 percent (the maximum permitted lot coverage is 70 percent), and bulkheads which do not comply with the permitted obstruction rules; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the School which necessitate the requested waivers: (1) that the School be ADA-accessible; and (2) that rooftop green space be provided for the students; and

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

WHEREAS, the applicant represents that the lot coverage and permitted obstruction waivers are necessary to make the School ADA-accessible through the construction of an elevator providing access to every floor on both the East Wing and West Wing; and

WHEREAS, the applicant states that the School's program requires that the Building be ADA-accessible because accessibility is fundamental to the aims of the School, as it seeks to make its curriculum available to students with disabilities, to employ faculty and staff with disabilities, and to allow parents with disabilities to visit the School; and

WHEREAS, the applicant states that the proposed elevator would be located in the courtyard of the R8B portion of the Building, which would allow it to make a total of 13 stops on all floors of both wings of the Building, except for the basement of the East Wing and the rooftop green space; and

WHEREAS, the applicant represents that without the waivers, it would not be feasible to make the Building ADA-accessible; and

WHEREAS, the applicant states that the School also has a programmatic need to create a green space, including a discovery garden and play area, on the rooftop of the East Wing; and

WHEREAS, the applicant states that the rooftop green space will be incorporated into the School's curriculum; and

WHEREAS, the applicant represents that in order to make the rooftop green space accessible to students it must be located within the East Wing, and a new stair bulkhead must be constructed on the roof in order to provide a second means of egress; and

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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, however, the applicant represents that there are also unique physical conditions that result in practical difficulties or unnecessary hardship in allowing the School to satisfy its programmatic need while complying with the Zoning Resolution; and

WHEREAS, the applicant states that the options for making the Building handicapped accessible are limited because, among other things: (1) neither the East Wing nor West Wing can be accessed without the use of stairs because the ground floor level of both wings is above the curb level; (2) neither wing has an elevator that complies with applicable Building Code requirements; and (3) the two wings are at different levels, so movement between the wings requires the use of stairs; and

WHEREAS, specifically, the applicant states that, because the wings have different levels, the only way to pass from space used for school purposes in one wing of the Building to similar space in the other wing is through one of six doorways, located at different elevations, that connect the stairway of the East Wing to the adjacent stairway of the West Wing; and

WHEREAS, the applicant further states that it is only possible to pass through one of the doorways from one wing to the other without the use of stairs at the lowest shared elevation of both wings (i.e., the cellar of the West Wing and the basement and cellar of the East Wing); above the shared level such passage between the wings is only possible with the use of stairs; and

WHEREAS, the applicant submitted a letter from an elevator consultant stating that the existing elevator in the West Wing cannot be modified or upgraded to comply with the accessibility requirements of the Building Code; and

WHEREAS, the applicant represents that the proposed waivers are necessary because constructing a complying enlargement which would make the Building ADA-accessible would require the installation of two elevators (one to facilitate access between the cellar and fourth floor of the East Wing and one to facilitate access between the fourth floor and roof of the East Wing), a ramping system to provide access from each floor of the East Wing to each floor of the West Wing, a wheelchair lift to provide access to the cellar of the East Wing from street level, and a wheelchair ramp to provide street level access to the East Wing; and

WHEREAS, the applicant states that the complying elevators would also have to be constructed within the footprint of the East Wing portion of the Building because the elevators

could not be located within the courtyard, as it would exceed the maximum permitted lot coverage under ZR § 24-11; and

WHEREAS, the applicant represents that the need to construct the complying elevators within the footprint of the East Wing results in smaller classrooms at the fourth and fifth floors and a reduction in the amount of classroom space of approximately 1,419 sq. ft., which would equate to approximately 40 fewer students; and

WHEREAS, the Board notes that the School leases the Building; however, even if the School's lease expires, the requested variance would still be necessary for any subsequent educational institution that occupies the existing 1936 school building; and

WHEREAS, the Board further notes that the Building was constructed as a school in 1936 and has been occupied by a school use since that time; and

WHEREAS, the Board finds that the School's programmatic needs are legitimate, and agrees that the proposed enlargement is necessary to address its needs, given the current limitations; and

WHEREAS, accordingly, based upon the above, the Board finds that the limitations of the current site, when considered in conjunction with 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 for-profit institution the finding set forth at ZR § 72-21(b) must be made in order to grant the variance requested in this application; and

WHEREAS, the applicant submitted a financial analysis which analyzed the following scenarios: (1) an as-of-right enlargement consisting of the construction of two elevators to provide ADA-accessibility; and (2) the proposed enlargement; and

WHEREAS, the financial analysis concluded that the as-of-right scenario would not realize a reasonable return, but that the proposed scenario would realize a reasonable return; and

WHEREAS, based upon the above, the Board has determined that there is no reasonable possibility that a development in strict conformance with zoning will provide 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, as noted above, the Building was constructed in 1936 and has been operating since that time as a school; and

WHEREAS, the applicant states that the proposed enlargement will be constructed within the courtyard of the Building and, except for a portion of the new elevator bulkhead, will not be visible from the street; and

WHEREAS, at hearing, the Board questioned whether the applicant could reduce the height of the proposed elevator bulkhead, and whether a hydraulic elevator could be installed rather than a traction elevator to reduce the

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height of the bulkhead; and

WHEREAS, in response, the applicant submitted a letter from an elevator consultant stating that the height of the proposed elevator bulkhead is dictated by the Building Code requirements related to traction elevators; and

WHEREAS, the letter from the elevator consultant further stated that the travel distance of 78'-8" makes the installation of a hydraulic elevator at the subject site impractical because hydraulic elevators are generally only efficient up to 60'-0" of travel and consume a significantly greater amount of electrical power; 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 or a predecessor in title; and

WHEREAS, the applicant represents that the requested waivers are 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 a Type II action pursuant to Section 617.5 of 6 NYCRR; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site partially within an R8B zoning district and partially within a C6-2A zoning district, the enlargement of a five- and six-story (including basement) school building (Use Group 3), which is contrary to ZR §§ 24-11 and 24-51; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 12, 2011" – (10) sheets and "Received July 20, 2011" – (1) sheet and *on further condition*:

THAT the following shall be the bulk parameters for the building: a floor area of 42,067 sq. ft. (4.02 FAR), a lot coverage of 83.4 percent, and a net surface area of the portions of the bulkheads above 75 feet of approximately 369 sq. ft., as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

jurisdiction objection(s);

THAT substantial construction shall be completed in accordance with 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, July 26, 2011.

37-11-BZ

APPLICANT – Moshe M. Friedman, for Eli Bauer, owner.
SUBJECT – Application April 4, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yards (§23-461) and (§23-48) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1337 East 26th Street, east side, 300' of Avenue M and East 26th Street, Block 7662, Lot 32, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Yosef Gottdiener.

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 March 29, 2011, acting on Department of Buildings Application No. 320214193, reads in pertinent part:

“Proposed extension of an existing one family dwelling is contrary to:

ZR Sec 23-141 Floor Area Ratio

ZR Sec 23-141 Open Space Ratio

ZR Sec 23-47 Required Rear Yard

ZR Sec 23-46 & 23-48 Required Side Yard;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a 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, 23-48 and 23-47; and

WHEREAS, a public hearing was held on this application on June 21, 2011 after due notice by publication in *The City Record*, and then to decision on July 26, 2011; and

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

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

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

WHEREAS, the subject site has a total lot area of 3,000 sq. ft., and is occupied by a single-family home with a floor area of 2,111 sq. ft. (0.70 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,111 sq. ft. (0.70 FAR) to 2,929 sq. ft. (0.98 FAR); the maximum permitted floor area is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 64 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain the existing side yard along the southern lot line with a width of 3'-2¼" (a minimum width of 5'-0" is required for each side yard) and the existing side yard along the northern lot line with a width of 6'-11¾"; and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 23'-4¼" (a minimum rear yard depth of 30'-0" is required); and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, and will not impair the future use or development of the surrounding area; and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, 23-48 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this

application and marked "Received May 26, 2011"-(11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,929 sq. ft. (0.98 FAR); an open space ratio of 64 percent; a side yard with a minimum width of 3'-2¼" along the southern lot line; a side yard with a minimum width of 6'-11¾" along the northern lot line; and a rear yard with a minimum depth of 23'-4¼", as illustrated on the BSA-approved plans;

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

THAT 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, July 26, 2011.

59-11-BZ CEQR #11-BSA-092R

APPLICANT – The Law Office of Fredrick A. Becker, for 156 South Avenue Corporation, owner; Community Health Center, lessee.

SUBJECT – Application May 5, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory diagnostic facility building. C8-1 zoning district.

PREMISES AFFECTED – 439 Port Richmond Avenue, southwest corner of Port Richmond Avenue and Homestead Avenue, Block 1048, Lot 9, Borough of Staten Island.

COMMUNITY BOARD #ISI

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated May 4, 2011, acting on Department of Buildings Application No. 520062566, reads in pertinent part:

"Required accessory off street parking is not being provided for proposed change of use from use group 6 (store) and use group 16 (offices) to use group 4 (community facility) for existing building

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located in a C8-1 zoning district which was erected after 12/15/1961 contrary to section 36-21 of the New York City Zoning Resolution;” and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within a C8-1 zoning district, a reduction in the required number of accessory parking spaces for a Use Group 4 ambulatory diagnostic or treatment facility from 18 spaces to nine spaces, contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on June 21, 2011, after due notice by publication in *The City Record*, with a continued hearing on July 19, 2011, and then closed and set for decision on July 19, 2011; and

WHEREAS, on July 19, 2011 the application was re-opened to accept additional submissions, and then to decision on July 26, 2011; and

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

WHEREAS, Community Board 1, Staten Island, recommends disapproval of this application, citing concerns that the proposed number of parking spaces is insufficient for the proposed use; and

WHEREAS, a member of the community provided testimony in opposition to this application; and

WHEREAS, this application is brought on behalf of the Community Health Center of Richmond (the “Health Center”), a non-profit entity; and

WHEREAS, the subject site is located on the southwest corner of Port Richmond Avenue and Homestead Avenue, and has a lot area of 4,995 sq. ft.; and

WHEREAS, the site is currently occupied by a vacant two-story commercial building with a floor area of 5,230 (1.05 FAR); and

WHEREAS, the applicant proposes to convert the entire building to a Use Group 4 ambulatory diagnostic or treatment facility and to add a 375 sq. ft. enlargement at the second floor, for a total floor area of 5,605 sq. ft. (1.14 FAR); and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject C8-1 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for Use Group 4 ambulatory diagnostic or treatment facility uses; in the subject zoning district, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 36-21 the total number of required parking spaces for the existing and proposed office use at the site is 18; and

WHEREAS, the applicant represents that the proposed use of the site does not require 18 accessory parking spaces; and

WHEREAS, the applicant states that the staff at the proposed facility will primarily use public transportation; and

WHEREAS, the applicant represents that the majority of the patients for the proposed ambulatory diagnostic or treatment facility are from the Port Richmond area and therefore will either walk or take public transportation to the site, thereby lessening the demand for on-site parking; and

WHEREAS, pursuant to the special permit authorized by ZR § 73-44 the number of parking spaces for the subject 5,605 sq. ft. building could be reduced to nine for the proposed use; and

WHEREAS, the applicant proposes to provide a total of nine parking spaces; and

WHEREAS, the applicant states that any Certificate of Occupancy for the building will state that no subsequent Certificate of Occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, the Board finds that the applicant has submitted sufficient evidence that the Use Group 4 ambulatory diagnostic or treatment facility use is contemplated in good faith, in accordance with ZR § 73-44; and

WHEREAS, the applicant submitted a survey of available street parking within an approximate three block radius of the site, which reflects that there are between 52 and 65 available on-street parking spaces throughout the day; and

WHEREAS, based on the survey, the applicant represents that there will be sufficient available on-street parking in the surrounding area to compensate for the requested reduction of nine parking spaces at the subject site; and

WHEREAS, the applicant initially sought to provide the nine proposed parking spaces on-site, by means of an attended parking lot located on Homestead Avenue; and

WHEREAS, however, ZR § 36-521 prohibits the use of an attendant for required parking spaces, and instead there must be individual access to each vehicle and an aisle width of 22 feet; and

WHEREAS, the applicant states that, in order to comply with ZR § 36-521, only five unattended parking spaces can be accommodated on the on-site parking lot; and

WHEREAS, the applicant now proposes to provide the remaining four required parking spaces off-site; and

WHEREAS, accordingly, the applicant submitted a signed lease with the property owner for property located at 357 Port Richmond Avenue for four off-site parking spaces; and

WHEREAS, the applicant notes that 357 Port Richmond Avenue is located at the corner of Port Richmond Avenue and Hatfield Place, and is within the 600-ft. permitted distance from the subject site; and

WHEREAS, the applicant states that, upon approval of the subject application, the property owners will enter into a Restrictive Declaration for the off-site parking spaces as required by the Department of Buildings (“DOB”); and

WHEREAS, the Board agrees that the accessory

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parking space needs can be accommodated even with the parking reduction; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No.11BSA092R, dated May 5, 2011; 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 under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-44 and 73-03, to permit, within a C8-1 zoning district, a reduction in the required number of accessory parking spaces for a Use Group 4 ambulatory diagnostic or treatment facility from 18 spaces to nine spaces, contrary to ZR § 36-21; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received July 20, 2011"- one (1) sheet and "Received June 9, 2011" – seven (7) sheets, and *on further condition*:

THAT there shall be no change in the operator of the site without prior review and approval by the Board;

THAT a minimum of nine parking spaces shall be provided as follows: five unattended parking spaces shall be located in the accessory parking lot for the proposed use, and four off-site parking spaces shall be located at 357 Port Richmond Avenue;

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

THAT prior to the issuance of any DOB permits, a Restrictive Declaration for the four off-site parking spaces

shall be entered into between the Health Center and the property owner of 357 Port Richmond Avenue, and submitted to DOB;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

THAT any building enlargement shall be as approved by DOB and must comply with all relevant zoning district regulations;

THAT the layout and design of the accessory parking lot shall be as reviewed and 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 substantial construction shall be completed in accordance with ZR §73-70;

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

THAT the Department of Buildings must ensure compliance with all of 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, July 26, 2011.

221-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Chris Xu, owner.
SUBJECT – Application August 28, 2008 – Variance (§72-21) to permit the development of a transient hotel, contrary to district use regulations. M2-1 zoning district.

PREMISES AFFECTED – 34-08 Collins Place, north side of Collins Place, 34th Avenue, College Point Boulevard and 35th Avenue, Block 4945, Lot 34, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Richard Lobel and Barbara Cohen.

For Opposition: Ken Telly, Kevin McDermott, Beverly McDermott and Salvatore Cantatore.

ACTION OF THE BOARD – Laid over to September 27, 2011, at 1:30 P.M., for continued hearing.

236-09-BZ

APPLICANT – Marvin Mitzner, Esq, for Crosstown West 28 LLC, owner.

SUBJECT – Application July 31, 2009 – Variance (§72-21) to allow for a 29 story mixed use commercial and residential building contrary to use regulations (§42-00), floor area (§43-12), rear yard equivalent (§43-28), height (§43-43), tower regulations (§43-45) and parking (§13-10). M1-6 zoning district.

PREMISES AFFECTED – 140-148 West 28th Street, south

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side of West 28th Street, between 6th Avenue and 7th Avenue, block 803, Lots 62 and 65, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Marvin Mitzner.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to September 27, 2011, at 1:30 P.M., for decision, hearing closed.

119-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Samson and Rivka Molinsky, owners.

SUBJECT – Application June 28, 2010 – Variance (§72-21) to allow legalization of an enlargement of a residential building, contrary to front yard (§23-45) and height (§23-631) regulations. R2X zoning district.

PREMISES AFFECTED – 787 Cornaga Avenue, southwest corner of Cornaga Avenue and Mador Court, Block 15571, Lot 133, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to August 23, 2011, at 1:30 P.M., for adjourned hearing.

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 Sandy Anagnostov.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

194-10-BZ

APPLICANT – Eric Palatnik, P.C., for Revekka Kreposterman, owner.

SUBJECT – Application October 26, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141). R3-1 zoning district.

PREMISES AFFECTED – 175 Exeter Street, north of Oriental Avenue, Block 8737, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik and Sandy Anagnostou.

For Opposition: Judith Baron.

ACTION OF THE BOARD – Laid over to August 16, 2011, at 1:30 P.M., for continued hearing.

196-10-BZ

APPLICANT – James Chin & Associates, LLC, for Turtle Bay Inn, LLC., owner.

SUBJECT – Application October 25, 2010 – Variance (§72-21) to allow ground floor commercial use in an existing residential building, contrary to use regulations (§22-00). R8B zoning district.

PREMISES AFFECTED – 234 East 53rd Street, mid-block parcel located on the south side of 53rd Street, between 2nd and 3rd Avenue, Block 1326, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Chris Wright and Robert Pauls.

ACTION OF THE BOARD – Laid over to August 23, 2011, at 1:30 P.M., for continued hearing.

3-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Chaya Schron and Eli Shron, owners.

SUBJECT – Application January 10, 2011 – Special Permit (§73-622) for the enlargement of a single family home, contrary to floor area and open space (§23-141) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1221 East 22nd Street, between Avenue K and Avenue L, Block 7622, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to October 18, 2011, at 1:30 P.M., for adjourned hearing.

6-11-BZ

APPLICANT – Paul Bonfilio, for Denis Forde, Rockchapel Reality, LLC, owner.

SUBJECT – Application January 19, 2011 – Variance (§72-21) to permit the construction of a one family detached residence on a vacant corner tax lot contrary to ZR §23-711 for minimum distance between buildings on the same zoning lot; ZR §23-461 for less than the required width of a

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side yard on a corner lot and ZR §23-89(b) less than the required open area between two buildings. R2A zoning district.

PREMISES AFFECTED – 50-20 216th Street, corner of 51st Avenue, Block 7395, Lot 13, 16, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to September 13, 2011, at 1:30 P.M., for adjourned hearing.

21-11-BZ

APPLICANT – Eric Palatnik, P.C., for 1810-12 Voorhies Avenue, LLC, owner.

SUBJECT – Application February 28, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory or diagnostic treatment facility. C1-2/R4 zoning district.

PREMISES AFFECTED – 1810 Voorhies Avenue, south side of Voorhies Avenue, between East 19th Street and Sheepshead Bay Road, Block 8772, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to August 23, 2011, at 1:30 P.M., for adjourned hearing.

27-11-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 88 Franklin Street Group LLC, owner; Acqua Ancien Bath New York, LLC, lessee.

SUBJECT – Application March 22, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Acqua Ancien Bath*). C6-2A zoning district.

PREMISES AFFECTED – 86-88 Franklin Street, east of intersection of Church Street and Franklin Street, Block 175, Lot 8, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

60-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Zvi Turk and Miriam Turk, owners.

SUBJECT – Application May 5, 2011 – Special Permit (§73-622) for the enlargement of existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1214 East 29th Street, west side of East 29th Street and Avenue L, Block 7646, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to August 23, 2011, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.