
BULLETIN

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DOCKET

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190-11-BZ

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191-11-BZ

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192-11-BZ

2977 Hylan Boulevard, north side of Hylan Boulevard between Isabella Avenue and Guyon Avenue., Block 4301, Lot(s) 36 & 39, Borough of **Staten Island, Community Board: 03**. Variance (§72-21) to allow for the development of a Use Group 3 child care center contrary to §23-35 (Minimum Lot Width/Area), §25-31 (Required Parking) and §25-62 & §35-68 (Parking Lot Maneuverability). R2 / LDGMA district. R2 district.

193-11-BZ

215 Exeter Street, Oriental Boulevard and Esplanade, Block 8743, Lot(s) 42, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for an enlargement of an existing single family home contrary to floor area, open space and lot coverage (§23-141(b)); less than the minimum side yard (§23-461) and less than the required rear yard (§23-47). R3-1 zoning district. R3-1 district.

194-11-A

940 Richmond Avenue, west side of Richmond Avenue at northwest corner of Richmond Avenue and Monsey Place., Block 1706, Lot(s) 41, Borough of **Staten Island, Community Board: 01**. Appeal seeking a determination that the Department of Buildings improperly denied an application for a permit for a new building on a new zoning lot based on an erroneous decision that separate adjacent zoning lots under separate ownership must be considered a single zoning lot pursuant to §36-21 of the New York City Zoning Resolution. R3-2/C1-1- Zoning district . R3-2/C1-1 district.

195-11-BZ

2070 East 21st Street, West side of East 21st Street, between Avenue S and Avenue T., Block 7299, Lot(s) 39, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (§23-141(b)); side yard (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district. R3-2 district.

196-11-A

178-06 90th Avenue, southeast corner of the intersection of 90th Avenue and 178th Street., Block 9894, Lot(s) 47,48,51, Borough of **Queens, Community Board: 12**. An appeal seeking a common law vested right to continue development commenced under the prior R6 Zoning district regulations . R4-1 Zoning District . R4-1 district.

197-11-BZ

329 Wyckoff Avenue, Located on the northeast corner of the intersection formed by Wyckoff and Myrtle Avenues and Palmetto Street, Block 3444, Lot(s) 33, Borough of **Brooklyn, Community Board: 05**. Special Permit (§73-36) to permit the operation of a physical culture establishment on a portion of the first and second floors of an existing two-story building. C4-3 zoning districts. C4-3 district.

1-12-BZ

434 6th Avenue, southeast corner of 6th Avenue and West 10th Street., Block 573, Lot(s) 6, Borough of **Manhattan, Community Board: 02**. Special Permit (§73-36) to permit the operation of a physical culture establishmen/Yoga facility on the second floor of a six story commercial building. C4-5(LC) district.

2-12-BZ

95-36 115th Street, 335.29' south of intersection of 95th Avenue and 115th Street., Block 9416, Lot(s) 24, Borough of **Queens, Community Board: 09**. Application filed to permit construction of a cellar and thee-story, two-family dwelling on a vacant lot that does not provide required side yards (two side yards of 3.01 proposed, 5' required), does not provide two required parking spaces (one space provided), and locates a proposed parking space within the proposed front yard contrary to the zoning resolution. R5 district.

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3-12-BZ

1913 East 28th Street, east side of East 28th Street, 100' south of Avenue S., Block 7307, Lot(s) 88, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit the enlargement of a single-family residence located within an r4 zoning district, contrary to floor area and side yard regulations. R4 district.

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

CALENDAR

JANUARY 31, 2012, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, January 31, 2012, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

611-76-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Capitol One Bank, owner.

SUBJECT – Application November 15, 2011 – Extension of Term of a previously granted Variance (72-21) for the continued operation of an off-site accessory parking facility for a bank (Capital One) which expires on February 15, 2012. R4 zoning district.

PREMISES AFFECTED – 43-17/21 214th Place, east side 161.24' north of Northern Boulevard, Block 6301, Lot 9, 10, 11, Borough of Queens.

COMMUNITY BOARD #11Q

540-86-BZ

APPLICANT – Slater & Beckerman, LLP, for 148 Jamaica Avenue Co., LLC, owner.

SUBJECT – Application November 4, 2011 – Extension of Term of a previously granted Special Permit (73-42) for the continued operation of a one story UG6 commercial building (Key Food); an Amendment of the resolution to eliminate the restriction on hours of operation. C4-2A/R6B zoning district.

PREMISES AFFECTED – 32-11/32-21 Newton Avenue, northwest corner of Newton Avenue and 33rd Street, Block 619, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

162-95-BZ & 163-95-BZ

APPLICANT – Sheldon Lobel, P.C., for Salvatore Bonavita, owner; Pelham Bay Fitness Group, LLC, lessee.

SUBJECT – Application April 3, 2011 – Extension of Term to permit the continued operation of a Physical Cultural Establishment (Planet Fitness) which expired on July 30, 2006; Waiver of the rules. C2-4/R6 and R7-1 zoning district.

PREMISES AFFECTED – 3060 & 3074 Westchester Avenue, Southern side of Westchester Avenue between Mahan Avenue and Hobart Avenue. Block 4196, Lots 9, 11 & 13, Borough of Bronx.

COMMUNITY BOARD #10BX

327-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Beth Gavriel Bukharian Congregation, owner.

SUBJECT – Application June 5, 2009 – Extension of Time to Complete Construction and Extension of Time to obtain a Certificate of Occupancy of a previously granted Variance (§72-21) for the enlargement of an existing Synagogue and School (Beth Gavriel), in an R1-2 zoning district, which expired on June 7, 2009.

PREMISES AFFECTED – 66-35 108th Street, east side of 108th Street, east side of 108th Street, between 66th Road and 67th Avenue, Block 2175, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEALS CALENDAR

186-11-A

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 170 Broadway NYC LP c/o Highgate Holdings, Inc., owner.

SUBJECT – Application December 8, 2011 – Application pursuant to Multiple Dwelling Law ("MDL") Section 310(2)(a) for a variance of the court and yard requirements of MDL Section 26 to facilitate the conversion of an existing office building to a transient hotel. C5-5/LM zoning district.

PREMISES AFFECTED – 170 Broadway, southeast corner of Broadway and Maiden Lane. Block 64, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #1M

JANUARY 31, 2012, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, January 31, 2012, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

108-11-BZ thru 111-11-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Belett Holdings LLC, owner.

SUBJECT – Application August 8, 2011 – Variance (§72-21) to permit the construction of four semi-detached one-family dwellings that do not provide ground floor commercial use as per §32-433. C1-1/R3-1 zoning district.

PREMISES AFFECTED – 10, 12, 14 & 16 Hett Avenue, East side of Hett Avenue, 99.52 feet south of the intersection of Hett Avenue and New Dorp Lane. Block 4065, Lots 27, 25, 24 & 21, Borough of Staten Island.

COMMUNITY BOARD #2SI

CALENDAR

112-11-BZ

APPLICANT – Eric Palatnik, P.C., for Louis N. Petrosino, owner.

SUBJECT – Application August 9, 2011 – Variance (§72-21) to legalize the enlargement of the zoning lot of a previously approved scrap metal yard (UG 18) which is contrary to §32-10. C8-1 zoning district.

PREMISES AFFECTED – 2994/3018 Cropsey Avenue, southwest corner of Bay 54th Street. Block 6947, Lot 260. Borough of Brooklyn.

COMMUNITY BOARD #13BK

175-11-BZ

APPLICANT – Raymond H. Levin, for Clinton Park Holdings, LLC, owners.

SUBJECT – Application November 10, 2011 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Mercedes House*). C6-3X (Clinton Special District).

PREMISES AFFECTED – 550 West 54th Street, aka 770 11th Avenue, bounded by 11th Avenue, West 54th Street, 10th Avenue and West 53rd Street, Block 1082, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #9M

179-11-BZ

APPLICANT – Herrick, Feinstein LLP, for Ridgedale Realty Company, LLC, owner; Kings of Queens Retro/Retro Fitness of Glendale, lessee.

SUBJECT – Application November 30, 2011 – Special Permit (§73-36) to permit the operation of a physical culture establishment (New Retro Fitness) to be located within 1-story existing building. M1-1 zoning district.

PREMISES AFFECTED – 65-45 Otto Road, between 66th Street and 66th Place. Block 3667, Lot 625. Borough of Queens.

COMMUNITY BOARD #5Q

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, JANUARY 10, 2012
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

789-45-BZ

APPLICANT – Walter T. Gorman, P.E., for Woodside 56 LLC, owner; Getty Properties Corp., lessee.

SUBJECT – Application July 6, 2011 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a (UG16) gasoline service station (*Getty*) which expired on July 13, 2006; Extension of Time to Obtain a Certificate of Occupancy which expired February 4, 2005; Waiver of the Rules. M1-1/R5 zoning district.

PREMISES AFFECTED – 56-02/56-20 Broadway, south east corner of 56th Street, Block 1195, Lot 44, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Omair Khanzada.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term, and an extension of time to obtain a certificate of occupancy for a previously granted variance for a gasoline service station; and

WHEREAS, a public hearing was held on this application on November 15, 2011 after due notice by publication in *The City Record*, with a continued hearing on December 13, 2011, and then to decision on January 10, 2012; and

WHEREAS, Community Board 2, Queens, recommends disapproval of this application; and

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

WHEREAS, the site is located on the south side of Broadway between 56th Street and 57th Street, partially within an M1-1 zoning district and partially within an R5 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 16, 1946 when, under the subject calendar number, the Board granted a variance to permit the

site to be occupied by a gasoline service station for a term of ten years; and

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

WHEREAS, on May 27, 1998, the Board granted an extension of term for a period of ten years, which expired on July 13, 2006; a condition of the grant was that a certificate of occupancy be obtained by May 27, 1999; and

WHEREAS, subsequently, the Board granted several extensions of time to obtain a certificate of occupancy; most recently, on February 4, 2003, the Board granted a two-year extension of time to obtain a certificate of occupancy, to expire on February 4, 2005; and

WHEREAS, the applicant states that a new certificate of occupancy has not been obtained due to internal operating changes at Getty; and

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

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

WHEREAS, at hearing, the Board raised concerns about the open Fire Department violations issued in 2007 and 2008 for failure to conduct a test for the newly installed fire suppression system, the layout of on-site parking and the parking of cars on the sidewalk, and compliance with C1 district signage regulations; and

WHEREAS, in response, the applicant submitted (1) a letter from the Fire Department stating that it approved the installation of a fire suppression system at the site on February 19, 2008, (2) affidavits from the owner and operator stating that all on-site parking will be in accordance with the layout approved by the Board and that there will be no parking permitted on the sidewalk, and (3) a sign chart reflecting that the signage on the site complies with C1 district regulations; and

WHEREAS, the applicant also submitted photographs reflecting that, since the Board's last grant, new landscaping has been planted along the 57th Street side of the site and the fencing along the 56th Street side of the site has been replaced; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated July 16, 1946, so that as amended this portion of the resolution shall read: "to extend the term for ten years from July 13, 2006, to expire on July 13, 2016, and to grant a one-year extension of time to obtain a certificate of occupancy, to expire on January 10, 2013; *on condition* that all use and operations shall substantially conform to plans filed with this application marked 'September 26, 2011'-(5) sheets; and *on further condition*:

THAT the term of the grant shall expire on July 13, 2016;

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

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THAT there shall be no parking of cars on the sidewalk and all on-site parking shall be in accordance with the BSA-approved plans;

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

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

THAT a new certificate of occupancy shall be obtained by January 10, 2013;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 420372340)

Adopted by the Board of Standards and Appeals January 10, 2012.

593-69-BZ

APPLICANT – Eric Palatnik, P.C., for Metro New York Dealer Stations, LLC, owner.

SUBJECT – Application May 27, 2011 – Amendment (§11-413) to convert automotive repair bays to an accessory convenience store at an existing gasoline service station (*Shell*). C2-2/R5 zoning district.

PREMISES AFFECTED – 108-01 Atlantic Avenue, Between 108th and 109th Street. Block 9315, Lot 23, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance for an automotive service station with accessory uses, pursuant to ZR § 11-413; and

WHEREAS, a public hearing was held on this application on August 16, 2011 after due notice by publication in *The City Record*, with a continued hearing on September 20, 2011, October 25, 2011 and December 6, 2011, and then to decision on January 10, 2012; and

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

WHEREAS, Community Board 9, Queens, recommends approval of this application; and

WHEREAS, the site is located on a through lot bounded

by 108th Street to the west, Atlantic Avenue to the south, and 109th Street to the east, within a C2-2 (R5) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 1, 1949 when, under BSA Cal. No. 866-48-BZ, the Board granted a variance to permit the premises to be occupied by an automotive service station with accessory uses; and

WHEREAS, on February 10, 1970, under the subject calendar, the Board permitted the enlargement of the lot area and the reconstruction of the automotive service station with accessory uses, pursuant to ZR § 11-412; and

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

WHEREAS, most recently, on September 26, 1989, the Board granted an amendment to permit a change in the design of the accessory building and the canopy; and

WHEREAS, the applicant now seeks an amendment to permit the conversion of the accessory automotive repair bays on the site to an accessory convenience store; and

WHEREAS, at hearing, the Board directed the applicant to establish that the proposed accessory convenience store complies with Technical Policy and Procedure Notice (TPPN) # 10/99; and

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

WHEREAS, the applicant submitted plans reflecting that that the proposed convenience store will be located entirely within the enclosed building, and that it will provide a total of 2,010 sq. ft. of retail selling space, which is less than 2,500 square feet or 25 percent of the zoning lot area; and

WHEREAS, thus, the Board notes that the convenience store meets the criteria set forth in TPPN # 10/99; and

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

WHEREAS, based upon its review of the record, the Board finds the requested amendment to the approved plans is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated February 10, 1970, so that as amended this portion of the resolution shall read: “to permit the conversion of the accessory automotive repair bays to an accessory convenience store pursuant to ZR § 11-413; *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 December 15, 2011”–(4) sheets; and *on further condition*:

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

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

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

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jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 420343300)

Adopted by the Board of Standards and Appeals January 10, 2012.

271-71-BZ

APPLICANT – Sheldon Lobel, P.C., for Plaza 400 Owners Corp., owner

SUBJECT – Application October 11, 2011 – Extension of Term for the continued use of transient parking in a residential apartment building which expired on July 6, 2011; waiver of the rules. R10/C1-5 zoning district.

PREMISES AFFECTED – 400 East 56th Street, corner of First Avenue, Block 1367, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #6M

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, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term for a previously granted variance for a transient parking garage, which expired on July 6, 2011; and

WHEREAS, a public hearing was held on this application on December 6, 2011, after due notice by publication in *The City Record*, and then to decision on January 10, 2012; and

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

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

WHEREAS, the subject premises is located on the east side of First Avenue between East 55th Street and East 56th Street, partially within an R10 zoning district and partially within a C1-5 (R10) zoning district; and

WHEREAS, the site has approximately 200 feet of frontage on First Avenue, 232 feet of frontage on East 55th Street and East 56th Street, and a total lot area of approximately 46,795 sq. ft.; and

WHEREAS, the site is occupied by a 39-story residential building; and

WHEREAS, the cellar, sub-cellar and second sub-cellar are occupied as a 301-space accessory parking garage; and

WHEREAS, on July 6, 1971, under the subject calendar

number, the Board granted a variance pursuant to Section 60(3) of the Multiple Dwelling Law to permit a maximum of 95 surplus parking spaces to be used for transient parking, for a term of five years; and

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

WHEREAS, most recently, on April 17, 2001, the Board granted a ten-year extension of term, which expired on July 6, 2011; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution having been adopted on July 6, 1971, so that, as amended, this portion of the resolution shall read: “to permit the extension of the term of the grant for an additional ten years from July 6, 2011, to expire on July 6, 2021; *on condition:*

THAT this term shall expire on July 6, 2021;

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

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 102804011)

Adopted by the Board of Standards and Appeals, January 10, 2012.

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280-98-BZ

APPLICANT – Rampulla Associates Architects, LLP, for MARS Holding, LLC, owner.

SUBJECT – Application November 1, 2011– Extension of Time to obtain a Certificate of Occupancy for a Variance (§72-21) for the continued operation of a UG4 dental office which expired on June 15, 2011. R2 zoning district.

PREMISES AFFECTED – 2936 Hylan Boulevard, east side of Hylan Boulevard, 100’ north of Isabella Avenue, Block 4015, Lot 14, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Stephanie.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to obtain a certificate of occupancy, which expired on June 15, 2011; and

WHEREAS, a public hearing was held on this application on December 13, 2011 after due notice by publication in *The City Record*, and then to decision on January 10, 2012; and

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

WHEREAS, the site is located on the east side of Hylan Boulevard, 100 feet north of Isabella Avenue, within an R2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 8, 2000 when, under the subject calendar number, the Board granted a variance to permit the extension of a dentist office use (identified as Use Group 6), formerly operated as a home occupation, into a portion of the building occupied by residential use, in what was then an R3-2 zoning district; the site was rezoned to R2 in 2005; and

WHEREAS, on June 15, 2010, the Board granted an amendment which permitted: (1) the elimination of the term; (2) the removal of the exterior access ramp and installation of an elevator to service the basement and first floor; (3) the modification of the parking layout; (4) the modification of the basement space to eliminate the garage, create a new patient waiting room, reception area and administrative office, and to relocate the employee lounge and redesign the existing bathroom; and (5) the redesign of the first floor to eliminate the waiting room, reception area and records room to be replaced by new patient rooms; and

WHEREAS, a condition of the grant was that a new certificate of occupancy be obtained by June 15, 2011; and

WHEREAS, most recently, on May 9, 2011, the Board issued a letter acknowledging that the owner did not wish to implement the modifications to the site approved under the

June 15, 2010 amendment, and requesting that the Department of Buildings (“DOB”) issue a certificate of occupancy to the applicant based on the plans originally approved by the Board on February 8, 2000; and

WHEREAS, the applicant states that DOB subsequently issued an objection directing the owner to get approval from the Board because the time to obtain a certificate of occupancy has expired; and

WHEREAS, the applicant states that a new certificate of occupancy has not been obtained due to financing issues, and the applicant has not completed the construction approved in association with the prior amendment; and

WHEREAS, accordingly, the applicant requests a 16-month extension of time to obtain a certificate of occupancy; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens*, and *amends* the resolution, dated February 8, 2000, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy for 16 months from the date of this resolution, to expire on May 10, 2013; *on condition* that all use and operations shall substantially conform to plans approved by the Board under the original grant of February 8, 2000, marked “Received October 16, 1998”-(14) sheets and “July 8, 1999”-(1) sheet; and on further condition:

THAT a new certificate of occupancy shall be obtained by May 10, 2013;

THAT the owner shall not commence construction pursuant to the plans approved by the Board on June 15, 2010 (marked “Received May 25, 2010” - (6) sheets) without prior application to and approval from the Board;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 520027051)

Adopted by the Board of Standards and Appeals January 10, 2012.

255-00-BZ

APPLICANT – Sheldon Lobel, P.C., for Full Gospel New York Church, owner.

SUBJECT – Application August 12, 2011 – Amendment to a variance (§72-21) to permit a change of use on the 2nd and 3rd floors of the existing building at the premises from UG4

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house of worship to UG3 school. M1-1/M2-1 zoning district.

PREMISES AFFECTED – 130-30 31st Avenue, north side of 31st Avenue, between College Point Boulevard and Whitestone Expressway, block 4360, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

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, this is an application for a reopening and an amendment to a previously granted variance for a house of worship (Use Group 4); and

WHEREAS, a public hearing was held on this application on December 6, 2011 after due notice by publication in *The City Record*, and then to decision on January 10, 2012; and

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

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

WHEREAS, this application was brought on behalf of Full Gospel New York Church (“Full Gospel Church”), a not-for-profit religious entity; and

WHEREAS, the site is located on the north side of 31st Avenue, between the Whitestone Expressway service road and College Point Boulevard, partially within an M1-1 zoning district and partially within an M2-1 zoning district; and

WHEREAS, the site has 348 feet of frontage on 31st Avenue, a depth of 600 feet, and a total lot area of 208,803 sq. ft.; and

WHEREAS, the subject site is occupied by a nine-story (including penthouse) mixed-use building with a house of worship (Use Group 4) at the cellar level, first floor, fourth floor and penthouse; a school (Use Group 3) at the second and third floors; and commercial offices (Use Group 6) at the fifth through eighth floors; and

WHEREAS, the Board has exercised jurisdiction over the subject site since August 4, 1998 when, under BSA Cal. No. 181-97-BZ, the Board granted a variance to permit the use of the cellar through fourth floor and penthouse of the existing building as a church, community center, and accessory offices; and

WHEREAS, on June 27, 2001, under the subject calendar number, the Board permitted the enlargement of the sanctuary, the construction of an accessory gymnasium, and modifications to the interior partitions; and

WHEREAS, subsequently, on May 23, 2002 and July 18, 2007, respectively, the Board issued letters of substantial compliance approving interior modifications at the site; and

WHEREAS, the applicant now seeks an amendment to legalize the conversion of the second and third floors of the subject building from a house of worship (Use Group 4) to a school (Use Group 3); and

WHEREAS, the applicant states that the school is operated as Promise Christian Academy, which was originally affiliated with Full Gospel Church; and

WHEREAS, the applicant states that the subject building is located on an extremely large zoning lot with the tower portion (where the school is located) being at least 70 feet from the nearest lot line; as a result, the surrounding commercial and storage uses do not have any adverse impacts on the proposed school use; and

WHEREAS, the applicant states that the school has a total of 154 students in pre-kindergarten through eighth grades, with 25 faculty and staff members; and

WHEREAS, the applicant further states that 80 percent of students arrive to the school by car and 20 percent arrive by shuttle vans; no students walk to the school; and

WHEREAS, as to faculty, the applicant states that 75 percent of the school’s faculty arrive by car and 25 percent arrive by public bus; and

WHEREAS, the applicant represents that the zoning lot, with an area of 208,803 sq. ft., has sufficient on-site space to accommodate all traffic generated by staff and students being dropped off/picked up from the school; and

WHEREAS, the applicant states that the subject site has 330 on-site parking spaces, with 131 reserved for the business office uses on the fifth through eighth floors, and 40 spaces along the front portion of the site dedicated exclusively for school use during the week; and

WHEREAS, accordingly, the applicant states that the school will not have any adverse traffic impacts on the surrounding street network; and

WHEREAS, based upon its review of the record, the Board finds the requested amendment to the approved plans is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 27, 2001, so that as amended this portion of the resolution shall read: “to permit the conversion of the second and third floors from a house of worship (Use Group 4) to a school (Use Group 3); *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 November 22, 2011”–(9) sheets; and *on further condition*:

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

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

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

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

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Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 400227642)

Adopted by the Board of Standards and Appeals January 10, 2012.

302-01-BZ

APPLICANT – Deirdre A. Carson, Esq., for Creston Avenue Realty, LLC, owner.

SUBJECT – Application October 12, 2011 – Extension of Time to obtain a Certificate of Occupancy for a variance for the continued use of a parking facility accessory to commercial use which expired on April 23, 2033; waiver of the rules. R8 zoning district.

PREMISES AFFECTED – 2519-2525 Creston Avenue, between East 190th and 191st Streets, Block 3175, Lot 26, Borough of Bronx.

COMMUNITY BOARD #7BX

APPEARANCES –

For Applicant: Randell Minor.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening, a waiver of the Rules of Practice and Procedure, and an extension of time to obtain a certificate of occupancy, which expired on April 23, 2003; and

WHEREAS, a public hearing was held on this application on December 6, 2011 after due notice by publication in *The City Record*, and then to decision on January 10, 2012; and

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

WHEREAS, the site is located on the southwest corner of Creston Avenue and East 191st Street, partially within an R8 zoning district and partially within a C4-4 zoning district; and

WHEREAS, on December 7, 1948, under BSA Cal. No. 861-48-BZ, the Board granted a variance to permit the site to be used for the parking of more than five motor vehicles, for a term of two years; and

WHEREAS, subsequently, the grant was amended and the term extended at various times, until its expiration on January 10, 1988; and

WHEREAS, on April 23, 2002, under the subject calendar number, the Board reestablished the expired variance pursuant to ZR § 11-411, to permit an accessory parking facility for commercial use at the site, for a term of ten years; a condition of the grant was that a new certificate of occupancy be obtained by April 23, 2003; and

WHEREAS, the applicant states that a certificate of occupancy has not been obtained due to miscommunication between the owner and operator of the site; and

WHEREAS, the applicant now requests a six-month extension of time to obtain a certificate of occupancy; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated April 23, 2002, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy for six months from the date of this resolution, to expire on July 10, 2012; *on condition*:

THAT a new certificate of occupancy shall be obtained by July 10, 2012;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 200683590)

Adopted by the Board of Standards and Appeals January 10, 2012.

529-52-BZ

APPLICANT – Alfonso Duarte, P.E., for Alacorn-Mordini Enterprises Inc., owner.

SUBJECT – Application June 7, 2011 – Extension of Term (§11-411) of a variance permitting automotive repair (UG 16B) with accessory uses which expired on May 9, 2011. C2-3/R6 zoning district.

PREMISES AFFECTED – 77-11 Roosevelt Avenue, north west corner Roosevelt Avenue & 78th Street. Block 1288, Lot 39. Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Alfonso Duarte.

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 January 31, 2012, at 10 A.M., for decision, hearing closed.

118-53-BZ

APPLICANT – Issa Khorasanchi, for Henry R. Jenet,

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owner.

SUBJECT – Application October 24, 2011 – Extension of Term (§11-411) for continued operation of UG6 retail stores which expired on December 7, 2011. R4 zoning district.

PREMISES AFFECTED – 106-57/61 160th Street, east side of 160th Street, 25' north of intersection of 107th Avenue and 160th Street, Block 10128, Lot 50, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Issc Khorasanchi.

ACTION OF THE BOARD – Laid over to February 28, 2012, at 10 A.M., for continued hearing.

295-57-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Aranoff Family Limited Partnership, owners.

SUBJECT – Application September 7, 2011 – Extension of Term (§11-411) for the continued operation of a Gasoline Service Station (*British Petroleum*) which expired on August 7, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on February 7, 2002. C1-2/R4 zoning district.

PREMISES AFFECTED – 146-15 Union Turnpike, northwest corner of Union Turnpike and 147th Street, Block 6672, Lot 80, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Hiram Rothkrug.

ACTION OF THE BOARD – Laid over to January 31, 2012, at 10 A.M., for continued hearing.

321-63-BZ

APPLICANT – Greenberg Traurig, LLP by Jay A. Segal, Esq., for Verizon New York, Inc., owner; 1775 Grand Concourse LLC, lessee.

SUBJECT – Application October 13, 2011 – Amendment of a special permit (§73-65) which permitted the construction of an 8-story enlargement of a telephone exchange building.

The Amendment seeks to permit Use Groups 6A, 6B and 6C, pursuant to §122-10. R8/Special Grand Concourse Preservation District.

PREMISES AFFECTED – 1775 Grand Concourse, west side of the Grand Concourse at the southeast intersection of Walton Avenue and East 175th Street, Block 282, Lot 1001-1004, Borough of Bronx.

COMMUNITY BOARD #5BX

APPEARANCES –

For Applicant: Jay Segal.

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 January 31, 2012, at 10 A.M., for decision, hearing closed.

737-65-BZ

APPLICANT – Sheldon Lobel, P.C., for Yorkshire Towers Company Successor II, L.P., owner.

SUBJECT – Application November 3, 2011 – Extension of Term permitting the use of 50 surplus tenant parking spaces, within an accessory garage, for transient parking, pursuant to §60 (3) of the Multiple Dwelling Law, which expired on November 3, 2010; Waiver of the Rules. C2-8 (TA), C2-8 and R8B zoning district.

PREMISES AFFECTED – 301-329 East 86th Street, corner through lot fronting on East 86th Street, East 87th Street and Second Avenue. Block 1549, Lot 1. Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Jordan Most.

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 February 7, 2012, at 10 A.M., for decision, hearing closed.

624-68-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for MMT Realty Associates LLC, owner.

SUBJECT – Application June 7, 2011 – Extension of Term of a Variance (§72-21) to permit wholesale plumbing supply (UG16), stores and office (UG6) which expired on January 13, 2011; Extension of Time to obtain a Certificate of Occupancy and waiver of the rules. R3-2 zoning district.

PREMISES AFFECTED – 188-07 Northern Boulevard, north side of Northern Boulevard between Utopia Parkway and 189th Street, Block 5364, Lots 1, 5, 7, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Hiram Rothkrug.

For Opposition: Henry Euler.

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 February 7, 2012, at 10 A.M., for decision, hearing closed.

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352-69-BZ

APPLICANT – Sheldon Lobel, P.C., for Dr. Alan Burns, owner.

SUBJECT – Application September 29, 2011 – Extension of Term (§72-21) of a Variance for the continued operation of a UG16 animal hospital (*Brooklyn Veterinary Hospital*) which expired on September 30, 1999; Waiver of the Rules. R6B zoning district.

PREMISES AFFECTED – 411 Vanderbilt Avenue, east side of Vanderbilt Avenue between Greene and Gates Avenue, Block 1960, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to February 7, 2012, at 10 A.M., for continued hearing.

188-96-BZ

APPLICANT – Mitchell S. Ross, Esq., for 444 Soundview Services Stations, Incorporated c/o William McCombs, owner; Scott Greco, lessee.

SUBJECT – Application June 22, 2010 – Extension of Term (§11-411) of a variance for the continued operation of a Gasoline Service Station (*Gulf*) with accessory convenience store which expired January 6, 2008; Waiver of the rules. R5 zoning district.

PREMISES AFFECTED – 444 Soundview Avenue, north side of Soundview Avenue and west of Underhill Avenue, Block 3498, Lot 51, Borough of Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Mitchell Ross.

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 January 31, 2012, at 10 A.M., for decision, hearing closed.

332-98-BZ

APPLICANT – Sheldon Lobel, P.C., for Workmen’s Circle MultiCare Center, owner.

SUBJECT – Application September 20, 2011 – Amendment to a previously granted Variance (§72-21) for an enlargement to an existing nursing home (*Workmen’s Circle MultiCare*). R5 zoning district.

PREMISES AFFECTED – 3155 Grace Avenue, entire block bounded by Burke, Grace, Hammersley and Ely Avenues, Block 4777, Lot 2, 57, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Jordan Most.

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 January 31, 2012, at 10 A.M., for decision, hearing closed.

156-03-BZ

APPLICANT – Goldman Harris LLC, for Northern RKO LLC, owner.

SUBJECT – Application November 30, 2011 – Extension of Time to Complete Construction of a Variance (§72-21) for the construction of a 17-story mixed-use commercial/community facility/residential building which expires on January 12, 2012. R6/C2-2 zoning district.

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard. Block 4958, Lots 48, 38. Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Vivien R. Krieger.

For Opposition: Cheshire Frager, Y. Sunny Halm and Christian Kellberg.

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 January 31, 2012, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

61-11-A

APPLICANT – Fire Department of New York, for Mark Scharfman, owner; Multiple Dwelling, lessee.

SUBJECT – Application May 6, 2011 – Application seeking to modify Certificate of Occupancy to require an automatic sprinkler system for residents on upper floors of building.

PREMISES AFFECTED – 134 9th Avenue, West 18th and West 19th Street, Block 742, Lot 4, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Anthony Scaduto, Fire Department.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application from the Fire Commissioner, requesting to modify the certificate of occupancy of the subject premises to reflect a requirement for an automatic wet sprinkler system throughout all stairways and public hallways of the subject building; and

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WHEREAS, the Fire Commissioner proposes to issue the following order to the property owner:

You are hereby directed and required to comply with the following order within (30) days.

Install an approved automatic wet sprinkler system throughout all stairways and public halls arranged and equipped as per the Building Code of the City of New York, Administrative Code Chapter 1, Section 28.101.1 and Title 28 Chapter 9, Section BC 903.

Authority: NYC Fire Code Chapter 9, Title 29, Section FC 901.4.3 of the Administrative Code, and Chapter 19 Sections 487 and 488 of the NYC Charter the building arranged and equipped as per Title 27, Chapter 1, and Subchapter 17 of the NYC Administrative Code.

Note: Plans shall be filed with and approved by the Department of Buildings before work commences; and

WHEREAS, a public hearing was held on this application on November 22, 2011, after due notice by publication in the *City Record*, and then to decision on January 10, 2012; and

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

WHEREAS, the subject premises is located on the east side of Ninth Avenue, between West 18th Street and West 19th Street, within a C2-6A zoning district; and

WHEREAS, the subject site is occupied by a six-story residential building with retail use on the ground floor and accessory uses at the cellar; and

WHEREAS, the current Certificate of Occupancy Number 91134 (the "Current CO") reflects the use of the building as a Class A Multiple Dwelling with a Use Group 6 store on the ground floor; and

WHEREAS, the Current CO indicates that sprinklers are installed in the building; however, the Fire Department notes that while an automatic wet sprinkler system is installed throughout the ground floor retail use and in the cellar, there is no sprinkler system installed on any of the residential floors (floors two through six); and

WHEREAS, the Fire Department performed an inspection of the building on May 28, 2008 and submitted a Sprinkler System Recommendation Report for the subject site which explained the need for the proposed automatic wet sprinkler system throughout the stairways and public halls of the upper floors; and

WHEREAS, the Fire Department asserts that the proposed modification to the Current CO is necessary in the interest of public safety because fire protection within the subject building is deemed inadequate; and

WHEREAS, specifically, the Fire Department states that an automatic wet sprinkler system is required throughout the stairways and public halls for the following reasons: (1) the subject building is a residential building with more than four units with a single means of egress, as the backyard is inaccessible from the front of the building; (2) the tight

wraparound stairwell constrains access to the upper floors and interior fire attack with stretching fire lines; (3) the Fire Department cannot ladder the building from the ground floor because access is severely limited at the rear and front of the building due to setbacks located at the upper floors, isolated balconies, and a lack of parapets from adjacent buildings; and (4) because egress from the upper floors is constrained, there is substantial risk of injury to residents in case of fire; and

WHEREAS, pursuant to Fire Code § 901.4.3, the Fire Department requests to modify the certificate of occupancy to reflect that an automatic wet sprinkler system be installed in the stairways and public hallways of the upper floors of the building; and

WHEREAS, the owner testified at hearing and provided a letter, dated May 31, 2011, agreeing to install a sprinkler configuration, in consultation with DOB, which would satisfy the Fire Department's requirements; and

WHEREAS, based on the above, the Board agrees with the Fire Department that, given the use and construction of the building, its requirement for automatic sprinklers throughout all stairways and public hallways in the building is appropriate; and

WHEREAS, the Board finds that the installation of an automatic wet sprinkler system, as requested by the Fire Department, supports the Fire Department's goals to protect life and property at the premises in the event of fire; and

WHEREAS, the Board notes that the ultimate configuration of the sprinkler system may differ from what the Fire Department initially requested, but it will be approved by DOB and the Fire Department prior to installation; and

WHEREAS, accordingly, the Board supports a modification to the certificate of occupancy to reflect that an automatic wet sprinkler system be maintained throughout all stairways and public halls in the subject building.

Therefore it is Resolved that the application of the Fire Commissioner, dated April 19, 2011, seeking the modification of Certificate of Occupancy No. 91134 is hereby granted.

Adopted by the Board of Standards and Appeals, January 10, 2012.

45-07-A

APPLICANT – Eric Palatnik, P.C., for Debra Wexelman, owner.

SUBJECT – Application July 20, 2011 – Extension of time to complete construction, which expired on July 10, 2011, in accordance with a previously approved common law vested rights application for a two-story and attic mixed-use residential and community facility building. R4-1 zoning district.

PREMISES AFFECTED – 1472 East 19th Street, between Avenue O and Avenue N, Block 6756, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Hiram Rothkrug.

ACTION OF THE BOARD – Laid over to February 14, 2012, at 10 A.M., for continued hearing.

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REGULAR MEETING
TUESDAY AFTERNOON, JANUARY 10, 2012
1:30 P.M.

8-11-A

APPLICANT – Beach Haven Group, LLC, for MTA/SBRW, lessee.

SUBJECT – Application January 26, 2011 – Proposed reconstruction of a tennis club located within the bed of a mapped street (Atwater Court and Colby Court), contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED – 2781 Shell Road, Atwater Court bounded by Shell Road and West 3rd Street, Colby Court bounded by Bokee Court and Atwater Court, Block 7232, Lot 1, 70, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES – None.

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 January 24, 2012, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

ZONING CALENDAR

42-11-BZ

CEQR #11-BSA-080Q

APPLICANT – Eric Palatnik, P.C., for Winden LLC, owner.

SUBJECT – Application April 12, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory or diagnostic treatment facility and for office uses. C4-2 zoning district.

PREMISES AFFECTED – 135-11 40th Road, between Prince and Main Streets, Block 5036, Lot 55, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated March 30, 2011, acting on Department of Buildings Application No. 420299910, reads in pertinent part:

Provided parking space contrary to ZR 36-21; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within a C4-2 zoning district, a reduction in the required number of accessory parking spaces for a mixed-use residential/office/community facility building from 99 to 69, contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on December 6, 2011, after due notice by publication in The City Record, and then to decision on January 10, 2012; and

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

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

WHEREAS, the subject site is located on the north side of 40th Road, between Main Street and Prince Street, within a C4-2 zoning district; and

WHEREAS, the site has 95 feet of frontage on 40th

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Road, a depth of 100 feet, and a total lot area of 9,500 sq. ft.; and

WHEREAS, the site is occupied by a ten-story and mezzanine mixed-use residential/commercial/community facility building, with a total floor area of 43,301 sq. ft., and 84 accessory valet parking spaces located at the cellar, sub-cellar and second floor; and

WHEREAS, the applicant states that the subject building is currently occupied by the following uses: (1) 37 accessory valet parking spaces at the sub-cellar level; (2) retail space (Use Group 6) and 28 accessory valet parking spaces at the cellar level; (3) retail space (Use Group 6) and a residential lobby (Use Group 2) on the first floor; (4) 19 accessory valet parking spaces on the second floor; (5) office and retail space (Use Group 6) on the third floor; (6) ambulatory diagnostic treatment facility space (Use Group 4) and retail space (Use Group 6) on the fourth floor; (7) retail space (Use Group 6) on the fifth floor; and (8) residential space (Use Group 2) on floors six through ten; and

WHEREAS, the applicant represents that the required number of accessory off-street parking spaces for the current use of the subject building pursuant to ZR § 36-21 is 83; thus, the existing 84 accessory off-street parking spaces at the site comply with the parking requirements of the Zoning Resolution; and

WHEREAS, the applicant now proposes to: (1) reduce the number of accessory valet parking spaces at the second floor from 19 to four, and to convert the remainder of the second floor to office space (Use Group 6); (2) convert the existing retail space at the third, fourth and fifth floors to office space (Use Group 6); and (3) convert 735 sq. ft. of the first floor from lobby space servicing retail use to lobby space servicing office use (Use Group 6); and

WHEREAS, the applicant states that with the conversion of a portion of the retail space and a portion of the space designated for accessory parking to office space, the floor area of the building will increase from 43,301 sq. ft. to 45,078 sq. ft., and the parking requirement for the building will increase; and

WHEREAS, the applicant represents that the portions of the building proposed to be converted to office space are currently vacant; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject C4-2 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 ambulatory diagnostic or treatment facilities and the noted Use Group 6 office use in the parking category B1; 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 all uses at the site is 99; and

WHEREAS, the applicant represents that the proposed 69 parking spaces are sufficient to accommodate the parking demand generated by the use of the site; and

WHEREAS, the applicant notes that 7,548 sq. ft. of

floor space in the building is occupied by retail space and 18,922 sq. ft. of floor area in the building is occupied by residential space, which are not in parking category B1 and therefore the associated 32 required spaces have been excluded from the calculations for the requested reduction in parking; and

WHEREAS, the applicant states that the remaining approximately 20,108 sq. ft. of floor area at the site will be occupied either by ambulatory diagnostic or treatment facility space or professional offices, which are eligible for the parking reduction under ZR § 73-44; at a rate of one required parking space per 300 sq. ft. of floor area, 67 parking spaces are required for these uses; and

WHEREAS, accordingly, the total number of parking spaces which are eligible under the special permit is 67; as noted, the special permit allows for a reduction from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area, which would reduce the required parking for these uses to 34 spaces; and

WHEREAS, as noted, an additional 32 parking spaces are required for the portions of the building occupied by retail and residential space, which are not eligible for the special permit; and

WHEREAS, thus, a total of 66 parking spaces are required for the uses on the site; and

WHEREAS, the applicant proposes to provide 69 accessory valet parking spaces on the subject site; and

WHEREAS, the applicant notes that the proposed total of 69 accessory parking spaces would provide three more spaces than the minimum of 66 required under the special permit; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the ambulatory diagnostic or treatment facility and Use Group 6 use in the B1 parking category are contemplated in good faith; and

WHEREAS, the applicant has submitted an affidavit from the owner of the premises stating that the use of the second through fifth floors as Use Group 6 professional offices and ambulatory diagnostic and treatment facility space is contemplated in good faith; and

WHEREAS, in addition, 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 of good faith in maintaining the noted uses at the site; and

WHEREAS, however, while ZR § 73-44 allows the Board to reduce the required accessory parking, the Board requested an analysis about the impact that such a reduction might have on the community in terms of available on-street parking; and

WHEREAS, in response, the applicant submitted a trip generation and parking analysis, which reflects that there is a peak parking demand for only 35 parking spaces from all

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uses in the subject building combined; and

WHEREAS, the parking analysis provided by the applicant further reflects that, throughout the course of the day, there are between 35 and 241 available on-street parking spaces within the immediate vicinity of the site, in addition to three municipal parking facilities located within a one-quarter mile radius of the site; and

WHEREAS, based upon this study, the Board agrees that the accessory 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. 11BSA080Q, dated April 12, 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 C4-2 zoning district, a reduction in the required number of accessory parking spaces for a mixed-use residential/commercial/community facility building from 99 to 69, 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 April 12, 2011" – eleven (11) sheets, and on further condition:

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

THAT a minimum of 69 parking spaces shall be

provided in the subject building;

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 the above conditions shall appear on the Certificate of Occupancy;

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 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, January 10, 2012.

67-11-BZ CEQR #11-BSA-097K

APPLICANT – Sheldon Lobel, P.C., for Joseph Kleinman, owner.

SUBJECT – Application May 13, 2011 – Special Permit (§73-622) for the enlargement of existing single family home, contrary to floor area and open space (§23-141) side yard and (§23-47) rear yard. R-2 zoning district.

PREMISES AFFECTED – 1430 East 29th Street, West side of 29th Street between Avenue N and Kings Highway. Block 7682, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Nora Martins

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 28, 2011, acting on Department of Buildings Application No. 320273048, reads in pertinent part:

The proposed floor area ratio exceeds the permitted maximum floor area ratio and is contrary to ZR § 23-141(a).

The proposed open space ratio is less than the minimum required open space ratio and is contrary to ZR §23-141(a).

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The proposed rear yard is less than the required minimum rear yard and is contrary to ZR §23-47; 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, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on September 27, 2011, after due notice by publication in *The City Record*, with continued hearings on November 1, 2011 and November 22, 2011, and then to decision on January 10, 2012; and

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

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

WHEREAS, the subject site is located on the west side of East 29th Street, between Avenue N and Kings Highway, within an R2 zoning district; and

WHEREAS, the site consists of a double tax lot (Lot 60), with 65 feet of frontage on East 29th Street, a depth of 100 feet, and a lot area of 6,500 sq. ft.; and

WHEREAS, the site is currently occupied by two two-story single-family homes situated 13.3 feet apart from each other; 1430 East 29th Street is located on the north side of the lot, and 1432 East 29th Street is located on the south side of the lot; and

WHEREAS, the two single-family homes on the subject site have a total combined floor area of 3,002 sq. ft. (0.46 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 proposes to enlarge the house located at 1432 East 29th Street and substantially demolish the house located at 1430 East 29th Street; and

WHEREAS, the applicant seeks an increase in the floor area from 3,002 sq. ft. (0.46 FAR) to 6,289 sq. ft. (0.97 FAR) across the entire site; the maximum permitted floor area is 3,250 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 49 percent (150 percent is the minimum required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20'-0" (a minimum rear yard 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, the applicant submitted an FAR table and map identifying 13 homes in the surrounding area that were enlarged pursuant to the special permit under ZR §73-622; and

WHEREAS, the applicant states that the 13 special

permit homes identified have FARs between 0.75 and 1.25, with 11 of the 13 homes having an FAR equal to or greater than the proposed 0.97; and

WHEREAS, the applicant notes that six of the 13 homes identified in the study are also double-wide, similar to the proposed home; and

WHEREAS, the applicant also submitted a residential FAR survey identifying 27 homes and apartment buildings in the immediate vicinity of the site with FARs greater than the proposed 0.97, including a multifamily building with an FAR of 2.36 and 84 residential units located at the southern end of the subject block; and

WHEREAS, at hearing, the Board raised concerns about the applicant's original proposal, which proposed a cellar extending beyond the footprint of the first floor, contrary to the Department of Buildings' ("DOB") position and the Board's decision pursuant to BSA Cal. No. 14-11-A, and which proposed to maintain the existing non-complying front yard with a depth of 11'-6" based on the location of the front wall of the home at 1430 East 29th Street, which is being substantially demolished; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the size of the cellar has been reduced in accordance with the Board's decision in BSA Cal. No. 14-11-A, and that the northern portion of the front yard (corresponding with the 1430 East 29th Street home) will provide a complying depth of 15'-0"; the southern portion of the front yard (corresponding with the 1432 East 29th Street home) will maintain the existing non-complying front yard depth of 11'-6"; and

WHEREAS, the Board also raised concerns about the attic floor height, the proposed home's compliance with the planting requirement of ZR § 23-451, and the amount of the existing homes being retained; and

WHEREAS, in response, the applicant submitted revised plans which reflect that the attic ceiling clearance height was reduced from 7'-11" to 7'-10" and the roof ridge was reduced by five inches, note that all open porches and landscaping requirements are subject to DOB approval, and clearly depict the portions of the existing home being retained; and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6

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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, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received November 17, 2011”-(12) sheets and “December 27, 2011”-(1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 6,289 sq. ft. (0.97 FAR); a minimum open space ratio of 49 percent; a front yard with a minimum depth of 11’-6” at the southern portion of the site; and a rear yard with a minimum depth of 20’-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 DOB shall review and approve compliance with the planting requirements under ZR § 23-451;

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, January 10, 2012.

74-11-BZ

CEQR #11-BSA-102R

APPLICANT – James Chin & Associates, LLC, for 1058 Forest Avenue Associates, owners.

SUBJECT – Application May 25, 2011 – Variance (§72-21) to allow the conversion of a community facility building for office use, contrary to use regulations. R3-2 & R-2 zoning district.

PREMISES AFFECTED – 1058 Forest Avenue, southeast intersection of Forest Avenue and Manor Road in West Brighton, Block 315, Lot 29, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: James Chin.

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 13, 2011, acting on Department of Buildings Application No. 520065438, reads in pertinent part:

Uses in use Group 6B are not permitted as-of-right in a R3-2 and R2 district and are contrary to section 32-15 Zoning Resolution and therefore referred to Board of Standards and Appeals; and

WHEREAS, this is an application under ZR § 72-21, to permit, partially within an R3-2 zoning district and partially within an R2 zoning district, the change of use of an existing one-story building from school (Use Group 3) to office (Use Group 6B), which does not conform to district use regulations, contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on September 27, 2011 after due notice by publication in *The City Record*, with continued hearings on November 1, 2011 and December 6, 2011, and then to decision on January 10, 2012; and

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

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

WHEREAS, the subject site is located on the southeast corner of the intersection of Forest Avenue and Manor Road, partially within an R3-2 zoning district and partially within an R2 zoning district; and

WHEREAS, the site has approximately 100 feet of frontage on Forest Avenue and 154 feet of frontage on Manor Road, with a total lot area of 15,400 sq. ft.; and

WHEREAS, the site is currently occupied by a one-story commercial building currently occupied by a school (Use Group 3), with a floor area of 4,860 sq. ft. (0.32 FAR); and

WHEREAS, on July 25, 1961, under BSA Cal. No. 566-61-BZ, the Board granted a use variance to permit the construction of a one-story office building with accessory parking on the site; and

WHEREAS, the Board also granted a companion application on July 25, 1961, under BSA Cal. No. 567-61-A, to permit the installation of curb cuts on Forest Avenue and Manor Road located within the bed of a mapped street, contrary to General City Law Section 35; and

WHEREAS, on July 7, 2004, the Board issued a letter stating that it had no objection to the change of use of the site from office (Use Group 6) to school (Use Group 3), which is permitted as-of-right in the subject zoning districts; and

WHEREAS, the applicant now proposes to revert the use of the subject building to office use (Use Group 6); and

WHEREAS, the applicant states that although the original variance expired in 1981, the subject building was used continuously for office use from 1962 through 2004; and

WHEREAS, because the prior variance has expired and commercial use is not permitted in the subject zoning districts, the applicant seeks a use variance to permit the proposed Use Group 6 use; and

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WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site with a complying development: (1) the history of use of the site as a professional office building; (2) the obsolescence of the subject building for conforming use; and (3) the presence of two street widening easements and the need for two front yards on the site; and

WHEREAS, as to the history of use of the site, the applicant states that, pursuant to the Board's grant under BSA Cal. No. 566-61-BZ, the subject building was constructed specifically for office use in 1962; and

WHEREAS, the applicant submitted a certificate of occupancy dated August 15, 1962, reflecting that the building was occupied by office use at that time, and submitted a timeline reflecting that the building was continuously occupied by office use until 2004; and

WHEREAS, the applicant states that although the office use of the site was discontinued in 2004, the floor plan of the subject building remained the same; and

WHEREAS, the applicant further states that while the certificate of occupancy from 2005 lists the use of the site as a school (Use Group 3), the use has remained more akin to an office use; and

WHEREAS, specifically, the applicant states that the tenant that has occupied the site since 2004 is a not-for-profit organization that provides programs for people with autism, including individual consulting services for students; and

WHEREAS, the applicant states that although the use is classified as a school, the layout of the building remains consistent with a typical small office building, with a number of small offices which are well suited for the one-on-one counseling and teaching; and

WHEREAS, the applicant notes that the existing building is in good condition and was configured for commercial use, and that no significant changes are anticipated for the proposed office use; and

WHEREAS, the applicant represents that the current tenant, which is classified as a Use Group 3 school but operates more like a Use Group 6 office, is unique, and that the subject building is obsolete for a typical conforming use; and

WHEREAS, specifically, the applicant states that the subject building, which lacks a cellar or basement, is too small to accommodate the typical facilities classified in Use Groups 3 or 4; and

WHEREAS, the applicant further states that the existing 11 parking spaces would be insufficient to meet the demand created by staff and visitors of such facilities; and

WHEREAS, the applicant notes that the use of the site as a school or day care facility would also be hampered by the lack of a play area on the site, which is required to meet the educational standards established by the New York State Department of Education; and

WHEREAS, as to the presence of the street widening easements, the applicant states that there is a 21'-0" by 100'-0" street widening easement along the Forest Avenue frontage and a 6.27'-0" by 133'-0" street widening easement along the Manor Road frontage; and

WHEREAS, the applicant states that the street widening easements occupy a total of 2,934 sq. ft., or 19 percent of the site, and reduce the buildable area from 15,400 sq. ft. to 12,466 sq. ft.; and

WHEREAS, the applicant further states that, because the site is a corner lot, two front yards are required; a front yard with a depth of 10'-0" is required along Forest Avenue, and a front yard with a depth of 15'-0" is required along Manor Road; and

WHEREAS, the applicant states that an as-of-right development would be required to set the front yards back from the widening lines on both streets, further reducing the buildable area on the site and impeding the construction of a new conforming building on the site; and

WHEREAS, the Board is not persuaded by the assertions of obsolescence or that the street widening easements constitute unique conditions that create practical difficulty or unnecessary hardship; and

WHEREAS, however, based upon the above, the Board finds that the history of development of the site is a unique condition which creates unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study which analyzed: (1) a conforming scenario consisting of the existing one-story 4,860 sq. ft. building occupied by community facility (Use Group 3) use; (2) an alternative conforming scenario consisting of one detached single-family home and two semi-detached single-family homes; (3) an alternative conforming scenario consisting of a three-story 14,580 sq. ft. community facility building (Use Group 4); and (4) the subject one-story building occupied by office use (Use Group 6); and

WHEREAS, the study concluded that the conforming scenarios would not result in a reasonable return, but that the proposed building would realize a reasonable return; and

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

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

WHEREAS, the applicant represents that the surrounding area is occupied by a mix of residential, commercial, and community facility uses; and

WHEREAS, the applicant notes that, prior to 2004, the subject building was occupied by an office use continuously for more than 40 years; and

WHEREAS, the applicant submitted a 400-ft. radius diagram which reflects that there is a two-story office building located immediately adjacent to the east of the site, and a two-story office building located directly across from the site, on Forest Avenue; and

WHEREAS, as to bulk, the applicant states that there are

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no changes proposed to the envelope of the subject one-story building, which has existed on the subject site for nearly 50 years, and that the floor area of 4,860 sq. ft. (0.32 FAR) is considerably below the maximum density for the subject zoning lot; and

WHEREAS, at hearing, the Board directed the applicant to reduce the proposed hours of operation for the office use, provide landscaping on the site, provide a garbage enclosure on the site, and comply with C1 district signage regulations; and

WHEREAS, in response, the applicant states that the hours of operation for the proposed office use will be Monday through Friday, from 9:00 a.m. to 7:00 p.m., and closed on weekends, and submitted revised plans reflecting that landscaping will be provided on the site, a garbage enclosure will be located at the southeast corner of the site, and that the signage will comply with C1 district regulations; 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 the result of the site's unique physical conditions; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11BSA102R dated September 2, 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 § 72-21 and grants a variance to permit, on a site partially within an R3-2 zoning

district and partially within an R2 zoning district, the change of use of an existing one-story building from school (Use Group 3) to office (Use Group 6B), which does not conform to district use regulations, 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 December 27, 2011" – six (6) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a total floor area of 4,860 sq. ft. (0.32 FAR); and 11 accessory parking spaces, as indicated on the BSA-approved plans;

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

THAT landscaping shall be planted and maintained in accordance with the BSA-approved plans;

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

THAT 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, January 10, 2012.

105-11-BZ CEQR #12-BSA-005K

APPLICANT – Slater & Beckerman, LLP, for 147 Remsen Street Associates, LLC, owner; Team Wellness Corp., lessee.

SUBJECT – Application July 27, 2011 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (*Massage Spa Envoy*). C5-2A (Special Downtown Brooklyn District) zoning district.

PREMISES AFFECTED – 147 Remsen Street, north side of Remsen Street, between Clinton Street and Court Street, block 250, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Stefanie Marazzi.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 21, 2011, acting on Department of Buildings Application No. 320320620, reads in pertinent part:

Provide Board of Standards and Appeals (BSA)

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approval for the proposed physical culture establishment as per ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C5-2A zoning district within the Special Downtown Brooklyn District, the operation of a physical culture establishment (“PCE”) on the first floor of a five-story mixed-use commercial/residential building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 6, 2011, after due notice by publication in *The City Record* and then to decision on January 10, 2012; and

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

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

WHEREAS, the subject site is located on the north side of Remsen Street, between Clinton Street and Court Street, in a C5-2A zoning district within the Special Downtown Brooklyn District; and

WHEREAS, the subject site is occupied by a five-story mixed-use commercial/residential building; and

WHEREAS, the proposed PCE will occupy 4,355 sq. ft. of floor area, comprising the entire first floor of the building; and

WHEREAS, the PCE will be operated as Massage Envy Spa; and

WHEREAS, the proposed hours of operation for the PCE are: Monday through Friday, from 9:00 a.m. to 10:00 p.m.; Saturdays, from 9:00 a.m. to 7:00 p.m.; and Sundays, from 10:00 a.m. to 6:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for the practice of massage by New York State licensed masseurs and masseuses; and

WHEREAS, the applicant states that the Special Downtown Brooklyn District regulations do not restrict the use of the first floor of the subject building for the proposed PCE use; and

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 12BSA005K, dated July 12, 2011; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located in a C5-2A zoning district within the Special Downtown Brooklyn District, the operation of a physical culture establishment on the first floor of a five-story mixed-use commercial/residential building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received October 26, 2011 - (1) sheet and “Received November 14, 2011 - (1) sheet and *on further condition*:

THAT the term of this grant shall expire on January 10, 2022;

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

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

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

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

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

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

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

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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, January 10, 2012.

134-11-BZ

CEQR #12-BSA-021M

APPLICANT – Eric Palatnik, P.C., for 335 Madison Avenue LLC, owner, Madison Spa Castle, Inc., lessee.

SUBJECT – Application September 7, 2011 – Special Permit (ZR §73-36) to allow the operation of a physical culture establishment (*Spa Castle*). C5-3 zoning district.

PREMISES AFFECTED – 335 Madison Avenue, corner of Madison Avenue and East 43rd Street. Block 1278, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated August 10, 2011, acting on Department of Buildings Application No. 120764645, reads in pertinent part:

Proposed physical culture establishment is not permitted in a C5-3 zoning district and requires special permit by the Board of Standards and Appeals as per Zoning Resolution Section 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C5-3 zoning district within the Special Midtown District, the operation of a physical culture establishment (“PCE”) in the sub-cellar and portions of the cellar and the first floor of a 29-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 22, 2011, after due notice by publication in *The City Record*, with a continued hearing on December 13, 2011 and then to decision on January 10, 2012; and

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

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

WHEREAS, the subject site is located on the east side of Madison Avenue between 43rd Street and 44th Street, in a C5-3 zoning district within the Special Midtown District;

and

WHEREAS, the subject site is occupied by a 29-story commercial building; and

WHEREAS, on April 28, 1987, under BSA Cal. No. 977-86-BZ, the Board granted a special permit to permit the operation of a PCE at the cellar, sub-cellar, and first floor of the subject building; and

WHEREAS, the applicant notes that the term for the previously-approved PCE at the subject site expired in 2007 and the PCE is no longer in operation; and

WHEREAS, the applicant now proposes a PCE that will occupy 521 sq. ft. of floor area on the first floor of the building, with an additional 29,775 sq. ft. of floor space located at the cellar and sub-cellar; and

WHEREAS, the PCE will be operated as Spa Castle; and

WHEREAS, the proposed hours of operation for the PCE are 6:00 a.m. to 12:00 a.m., daily; and

WHEREAS, the applicant represents that the services at the PCE include facilities for the practice of massage by New York State licensed masseurs and masseuses; and

WHEREAS, the applicant states that the Special Midtown District regulations do not restrict the use of the sub-cellar, cellar or first floor of the subject building for the proposed PCE use; and

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 12BSA021M, dated September 7, 2011; and

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

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Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located in a C5-3 zoning district within the Special Midtown District, the operation of a physical culture establishment at the sub-cellar and portions of the cellar and first floor of a 29-story commercial building, contrary to ZR § 32-10; on condition that all work shall substantially conform to drawings filed with this application marked "Received November 7, 2011" - (5) sheets, and on further condition:

THAT the term of this grant shall expire on January 10, 2022;

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

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

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

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

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

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

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, January 10, 2012.

54-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Bay Parkway Group LLC, owner.

SUBJECT – Application April 21, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory diagnostic or treatment facility building. R6/C1-3 zoning district.

PREMISES AFFECTED – 6010 Bay Parkway, west side of Bay Parkway between 60th Street and 61st Street, Block 5522, Lot 36 & 32, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Lyra J. Altman.

For Opposition: Assemblyman William Colton, Council Member David G. Greenfield, Leo Weinberger, Lucille Franco and Lorraine Cardozo.

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 February 7, 2012, at 1:30 P.M., for decision, hearing closed.

76-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. Eli Braha, owner.

SUBJECT – Application May 26, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141); rear yard (§23-47) and side yard (§23-461). R4/Ocean Parkway zoning district.

PREMISES AFFECTED – 2263 East 2nd Street, approximately 235' south of Gravesend Neck Road, Block 7154, Lot 68, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Nora Martins.

THE VOTE TO REOPEN 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 February 7, 2012, at 1:30 P.M., for continued hearing.

87-11-BZ

APPLICANT – Eric Palatnik, P.C., for Leonid Vayner, owner.

SUBJECT – Application June 21, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (23-141(b)). R3-1 zoning district.

PREMISES AFFECTED – 159 Exeter Street, between Hampton Street and Oriental Boulevard, Block 8737, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to February 14, 2012, at 1:30 P.M., for continued hearing.

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120-11-BZ

APPLICANT – Goldman Harris LLC. for Borden LIC Properties, LLC, owner.

SUBJECT – Application August 17, 2011 – Special Permit (§73-44) to reduce the parking requirement for office use and catering use (parking requirement category B1) in a new commercial building. M1-3 zoning district.

PREMISES AFFECTED – 52-11 29th Street, corner of 29th Street and Review Avenue. Block 295, Lot 1. Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Vivien R. Krieger and James Heineman.

ACTION OF THE BOARD – Laid over to February 14, 2012, at 1:30 P.M., for continued hearing.

130-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Leah Gutman and Arthur Gutman, owners.

SUBJECT – Application September 2, 2011 – Special Permit (§73-622) for the enlargement of an 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 – 3600 Bedford Avenue, between Avenue N and Avenue O, Block 7678, Lot 90, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to January 31, 2012, at 1:30 P.M., for continued hearing.

137-11-BZ

APPLICANT – Slater & Beckerman, LLP, for 455 Carroll Street LLC, owner.

SUBJECT – Application September 7, 2011 – Variance (§72-21) to allow the conversion of the second floor and second floor mezzanine from manufacturing and commercial uses to residential use, contrary to §42-10. M1-2 zoning district.

PREMISES AFFECTED – 455 Carroll Street, mid-block on the north side of Carroll Street between Nevins Street and Third Avenue, Block 447, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Stuart Beckerman.

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 February 28, 2012, at 1:30 P.M., for decision, hearing closed.

166-11-BZ

APPLICANT – Ellen Hay/Wachtel & Masyr LLP, for Roc Le Triomphe Associates LLC, owners; Crunch LLC, lessee.

SUBJECT – Application October 24, 2011 – Special Permit (§73-36) to continue the operation of the Physical Culture Establishment (*Crunch Fitness*). C2-8 (TA) zoning district.

PREMISES AFFECTED – 1109 Second Avenue, aka 245 East 58th Street, west side of Second Avenue between East 58th and East 59th Streets, Block 1332, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Ellen Hay.

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 February 7, 2012, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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*CORRECTION

This resolution adopted on July 26, 2011, under Calendar No. 37-11-BZ and printed in Volume 96, Bulletin No. 31, is hereby corrected to read as follows:

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. 320275910, 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

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 2,940 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”;

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 2,940 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”;

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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.

***The resolution has been revised to correct the DOB Application No. which read: “320214193” now reads: “320275910”, and to amend the clause, which read in part.: “2,929 sq. ft. (0.98 FAR)...” now reads: “2,940 sq. ft. (0.98 FAR)...”. Corrected in Bulletin Nos. 1-3, Vol. 97, dated January 18, 2012.**

*CORRECTION

This resolution adopted on September 13, 2011, under Calendar No. 68-11-BZ and printed in Volume 96, Bulletin Nos. 36-38, is hereby corrected to read as follows:

68-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Rivkie Weingarten and Nachum Weingarten, owners.

SUBJECT – Application May 16, 2011 – Special Permit (§73-622) for enlargement of existing single family home, contrary to floor area, lot coverage and open space (§23-141); rear yard (§23-47) and side yard (§23-461). R3-2 zoning district.

PREMISES AFFECTED – 1636 East 23rd Street, between Avenue P and Quentin Road, Block 6785, Lot 20, 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 Montanez.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 15, 2011, acting on Department of Buildings Application No. 320281510, reads in pertinent part:

“Proposed floor area is contrary to ZR 23-141.

Proposed open space ratio is contrary to ZR 23-141.

Proposed lot coverage is contrary to ZR 23-141.

Proposed rear yard is contrary to ZR 23-47.

Proposed side yard is contrary to ZR 23-461(a);”

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, open space ratio, 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 August 16, 2011, after due notice by publication in *The City Record*, and then to decision on September 13, 2011; and

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

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

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

WHEREAS, the subject site has a total lot area of

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4,000 sq. ft., and is occupied by a single-family home with a floor area of 1,660 sq. ft. (0.42 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 1,660 sq. ft. (0.42 FAR) to 3,987 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 an open space ratio of 50 percent (65 percent is the minimum required); and

WHEREAS, the applicant proposes to provide lot coverage of 50 percent (35 percent is the maximum permitted); and

WHEREAS, the applicant proposes to maintain the existing side yard along the southern lot line with a width of 4¼" (a minimum width of 5'-0" is required for each side yard) and to provide a side yard with a width of 5'-6½" along the northern lot line; and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20'-0" (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 R3-2 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, 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 August 25, 2011"-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of

the building: a maximum floor area of 3,987 sq. ft. (1.0 FAR); an open space ratio of 50 percent; lot coverage of 50 percent; a side yard with a minimum width of 4¼" along the southern lot line; a side yard with a minimum width of 5'-6½" along the northern lot line; and a rear yard with a minimum depth of 20'-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, September 13, 2011.

***The resolution has been revised to correct the filing date and to amend the width clause, which read in part: ...4'-1¼"... now reads: ...4¼"... Corrected in Bulletin Nos. 1-3, Vol. 97, dated January 18, 2012.**

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*CORRECTION

This resolution adopted on December 13, 2011, under Calendar No. 82-11-BZ and printed in Volume 96, Bulletin No. 51, is hereby corrected to read as follows:

82-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. Ilyaho Choueka, owner.

SUBJECT – Application June 8, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141); side yard (§23-461); rear yard (§23-47) regulations. R5 zoning district.

PREMISES AFFECTED – 2020 Homecrest Avenue, west side of Homecrest Avenue, 165’ south of Avenue T, Block 7316, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Nora Martins.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 7, 2011, acting on Department of Buildings Application No. 3197918, reads:

ZR 23-141 – Proposed floor area exceeds permitted.

ZR 23-461 – Proposed side yard is less than required minimum.

ZR 23-47 – Proposed rear yard is less than required minimum; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R5 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, 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 13, 2011, after due notice by publication in *The City Record*, with continued hearings on October 25, 2011 and November 22, 2011, and then to decision on December 13, 2011 and

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

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

WHEREAS, the subject site is located on the west side of Homecrest Avenue, south of Avenue T within an R5 zoning district; and

WHEREAS, the subject site has a lot area of 3,414 sq. ft. and is occupied by a single-family home with 1,761 sq. ft.

of floor area (0.52 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 1,761 sq. ft. (0.52 FAR) to 4,604 sq. ft. (1.35 FAR); the maximum permitted floor area is 4,268 sq. ft. (1.25 FAR); and

WHEREAS, the applicant proposes to provide one side yard with a width of 5’-0” and to maintain the pre-existing non-complying side yard with a width of 4’-5” (side yards with a total width of 13’-0” and a minimum width of 5’-0” each are required); and

WHEREAS, the applicant proposes to provide a rear yard with a depth of 20’-0” (a rear yard with a minimum depth of 30’-0” is required); and

WHEREAS, the Board initially asked the applicant to provide a side yard with a width of 8’-0”, rather than 5’-0” so that the proposal could more closely comply with the requirement for a total width of 13’-0” for both side yards; and

WHEREAS, in response, the applicant asserted that the text of ZR § 73-622 permits the proposed side yards; and

WHEREAS, specifically, the relevant text at ZR § 73-622(1) states that

Any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*; and

WHEREAS, the applicant asserts that its proposal to maintain one pre-existing non-complying side yard and to provide one complying side yard with a width of 5’-0” is consistent with the special permit text as it would not decrease the minimum width within the non-complying side yard; and

WHEREAS, further, the applicant considers the unique conditions of the subject site, which include a lot depth of 85 feet (opposed to the standard 100 feet) and adjacency to a non-complying multi-family building which does not provide a front yard, but does provide a side yard with a width of 10’-0” along the shared lot line; and

WHEREAS, the applicant also asserts that a side yard with a width of 5’-0” is consistent with the character of the neighborhood; and

WHEREAS, the Board considered the applicant’s request to provide a side yard with a width of 5’-0” as its complying yard and agrees that it is appropriate in the subject case; and

WHEREAS, the Board finds that it has jurisdiction, pursuant to ZR § 73-622 to approve the reduction of a complying side yard to a width of 5’-0”; and

WHEREAS, the Board notes that its conclusion is compatible with other side yard provisions in the Zoning Resolution such as ZR § 23-49 which allows property owners in certain residential zoning districts and under certain circumstances to build directly along one side lot line

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as long as a side yard with a width of at least 8'-0" is provided along the other side lot line, resulting in a failure to meet the total required width of 13'-0"; and

WHEREAS, generally, in consideration of the side yard requirements, including those set forth at ZR § 23-49, the Board finds a complying side yard with a width of 8'-0" to be the required complying side yard when the second side yard has a non-complying width less than 5'-0"; and

WHEREAS, however, the Board notes that a side yard with a width of 5'-0" is, on its own, a complying side yard condition; and

WHEREAS, the Board also notes that other side yard provisions, such as ZR § 23-49, already allow for the reduction of the side yard total to a width less than 13'-0"; and

WHEREAS, the Board notes that the reduction of the complying side yard from 8'-0" to 5'-0" may be warranted in certain cases and when there is compliance with all of the special permit findings; and

WHEREAS, the Board is persuaded that the site and surrounding conditions in the subject case are distinguishable from other cases with standard lot depths of 100 feet, which allow for a larger building footprint, and thus finds that the special permit findings, including that the proposal is compatible with the character of the neighborhood, are met; and

WHEREAS, in conclusion, the Board finds that when one side yard has a non-complying width of less than 5'-0", it would require that the second side yard have a width of at least 8'-0" except in certain instances when a second side yard with a width of less than 8'-0" but at least 5'-0" would be appropriate; 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 R5 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, 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 October 13, 2011"- (9) sheets; and *on further condition:*

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,604 sq. ft. (1.35 FAR); side yards with minimum widths of 4'-5" and 5'-0", and a rear yard with a minimum depth of 20'-0" as illustrated on the BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, December 13, 2011.

***The resolution has been revised to correct the owner's name and to amend the clause, which read in part:4,484 sq. ft. (1.34 FAR)... now reads:4,604 sq. ft. (1.35 FAR)... Corrected in Bulletin Nos. 1-3, Vol. 97, dated January 18, 2012.**

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*CORRECTION

This resolution adopted on December 13, 2011, under Calendar No. 89-11-BZ and printed in Volume 96, Bulletin No. 51, is hereby corrected to read as follows:

89-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Annie and Kfir Ribak, owners.

SUBJECT – Application June 23, 2011 – 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 yards (§23-461) and perimeter wall height (§23-631). R3-2 zoning district.

PREMISES AFFECTED – 2224 Avenue S, south west corner of Avenue S and East 23rd Street, Block 7301, Lot 9, 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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 25, 2011, acting on Department of Buildings Application No. 320269669, reads:

1. Contrary to ZR 23-141 in that the proposed floor area exceeds the maximum permitted.
2. Contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required.
3. Contrary to ZR 23-141 in that the proposed lot coverage exceeds the maximum permitted.
4. Contrary to ZR 23-631 in that the perimeter wall height exceeds the maximum permitted.
5. Contrary to ZR 23-461 in that the proposed side yards are less than the minimum required; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, lot coverage, open space ratio, perimeter wall height, and side yards contrary to ZR §§ 23-141, 23-631, and 23-461; and

WHEREAS, a public hearing was held on this application on November 1, 2011, after due notice by publication in *The City Record*, with continued hearings on November 22, 2011 and December 6, 2011, and then to decision on December 13, 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 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the southwest corner of Avenue S and East 23rd Street within an R3-2 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 1,946 sq. ft. of floor area (0.65 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 1,946 sq. ft. (0.65 FAR) to 3,027 sq. ft. (1.01 FAR); the maximum permitted floor area is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide a lot coverage of 42 percent (35 percent is the maximum permitted); and

WHEREAS, the applicant proposes to provide an open space ratio of 58 percent (65 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain a perimeter wall with a height of 22'-0", which is a pre-existing non-compliance; and

WHEREAS, the applicant proposes to provide one side yard with a width of 20'-0" and to maintain the pre-existing non-complying side yard with a width of 1'-6"; and

WHEREAS, the Board raised concerns about whether the proposed height and setback comply with zoning district regulations and are confined to the permitted building envelope; and

WHEREAS, in response, the applicant provided axonometric drawings to confirm that the proposal (other than the pre-existing non-complying perimeter wall height) did not exceed the permitted building envelope; and

WHEREAS, the Board determined that the axonometric drawings were not conclusive and stated that DOB should confirm full compliance; 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

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Review and makes the required findings under ZR § 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, lot coverage, open space ratio, perimeter wall height, and side yards contrary to ZR §§ 23-141, 23-631, and 23-461; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received November 9, 2011”-(8) sheets and “November 30, 2011”-(2) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,027 sq. ft. (1.01 FAR); a lot coverage of 42 percent; an open space ratio of 58 percent; a maximum perimeter wall height of 22 feet; and side yards with widths of 20’-0” and 1’-6”, as illustrated on the BSA-approved plans;

THAT DOB shall review that the height and setback comply with all regulations related to the permitted building envelope;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, December 13, 2011.

***The resolution has been revised to correct the Plans Dates which read: “November 30, 2011”-(4) sheets” now reads: “November 30, 2011”-(2) sheets. Corrected in Bulletin Nos. 1-3, Vol. 97, dated January 18, 2012.**

*CORRECTION

This resolution adopted on December 13, 2011, under Calendar No. 152-11-BZ and printed in Volume 96, Bulletin No. 51, is hereby corrected to read as follows:

152-11-BZ

CEQR #12-BSA-026M

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 240 East 38th Street Condominium on behalf of New York University, owner.

SUBJECT – Application September 19, 2011 – Variance (§72-21) to allow modifications to the existing plazas and arcades associated with the partial re-use of an existing building for a community facility (*NYU Langone Medical Center*), contrary to §37-625. C1-9 zoning district.

PREMISES AFFECTED – 240 East 38th Street, East 37th Street, Second Avenue, East 38th Street and Tunnel Exit Street, Block 918, Lot 1001-1026, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Elise Wagner.

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 September 16, 2011, acting on Department of Buildings Application No. 120803746, reads, in pertinent part:

1. Certain changes to existing plazas are not in greater accordance with the standards set forth in ZR 37-70, and therefore certification by the Chair of the City Planning Commission cannot be obtained, contrary to the requirements of ZR 37-625.
2. Proposed passenger drop-off and a driveway are located within and within 10 feet of arcade, contrary to ZR 37-80.
3. Proposed planters and seating are located within arcades beneath a height of 12 feet, contrary to ZR 37-80; and

WHEREAS, this is an application under ZR § 72-21, by NYU Langone Medical Center to permit, on a site in a C1-9/C1-9 Transit Land Use District (TA) zoning district, the modification to existing plazas and arcades including the introduction of a driveway and other obstructions, contrary to ZR §§ 37-625 and 37-80; and

WHEREAS, a public hearing was held on this application on November 22, 2011, after due notice by publication in the *City Record*, and then to decision on December 13, 2011; and

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

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Commissioner Hinkson, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 6, Manhattan, recommends approval of the application with the recommendation that the Medical Center post signage and paint curbs and the drop-off driveway to make it clear that there is no parking or standing and that the Medical Center employ a concierge to help direct vehicles; and

WHEREAS, this application is brought on behalf of the NYU Langone Medical Center (the "Medical Center"); and

WHEREAS, the site is located on a through lot with frontage on East 38th Street and East 37th Street, between Third Avenue and Second Avenue within a C1-9/C1-9 (TA) zoning district; and

WHEREAS, the site is part of a single zoning lot with the adjacent site at 221 East 37th Street (Block 918, Lot 14) (the "Zoning Lot"); and

WHEREAS, the adjacent site is owned by Verizon New York and is occupied with a nine-story building constructed in 1912 and subsequently enlarged pursuant to a bulk variance (BSA Cal. No. 304-38-BZ), because it exceeds floor area and height regulations; and

WHEREAS, the adjacent building is not proposed to be changed and is not part of the subject application except that it shares the subject Zoning Lot; and

WHEREAS, the Building has a plaza and arcade on East 37th Street (the "South Plaza" and "South Arcade") and a plaza and arcade on East 38th Street (the "North Plaza" and "North Arcade"); and

WHEREAS, NYU owns a condominium interest in the building (the "Building") for the benefit of the Medical Center, which will occupy 13 of the 24 non-mechanical floors of the Building for use as an Ambulatory Care Center; and

WHEREAS, Verizon owns a condominium interest in the Building and occupies the portions that are not occupied by the Medical Center; the current certificate of occupancy lists all floors above the first floor as offices and/or mechanical equipment (Use Group 6); and

WHEREAS, the Building was developed in the mid-1960s pursuant to the 1961 Zoning Resolution's plaza regulations, which allowed bonusable plazas with broad standards about dimensions and openness to the sky; arcades were subject to standards similar to those in effect today, including minimum dimensions and that they be open along their entire length; and

WHEREAS, pursuant to ZR § 37-625, design changes to existing plazas may be made only upon certification by the Chair of the City Planning Commission that such changes would result in a plaza that is in greater accordance with the public plaza standards set forth in ZR § 37-70; and

WHEREAS, the subject variance is required because some of the proposed design changes to the plazas, including the driveway, canopy, and baffle wall, would result in new non-compliances or increased degrees of non-compliance with the public plaza standards and therefore require a waiver of the ZR § 37-625 certification requirement and because the proposed driveway, planters, and movable seating do not comply with the arcade standards of ZR § 37-80 and also require waivers; and

WHEREAS, the Department of City Planning (DCP) has reviewed the changes and supports the plan submitted with this application as Drawings A-02.00 through A-026.00 and L-001.00 through L-520.00; and

WHEREAS, by letter dated September 14, 2001, DCP Counsel stated that a certification under ZR § 37-625 is unavailable for the proposed changes and that it would be appropriate to seek a variance from the Board to waive the requirement that the design changes must be in greater accordance with the public plaza standards and that a certification be obtained; and

WHEREAS, the applicant has acknowledged that the proposed passenger drop-off and driveway located within, and within ten feet of, the North Arcade is the Medical Center's primary need which triggers the remainder of the non-compliances (ZR § 37-80); and

WHEREAS, the applicant has identified the following specific non-compliances which necessitate the variance for the North Plaza: (1) the proposed driveway and passenger drop-off are not permitted obstructions (ZR § 37-726(d)); (2) the proposed canopy exceeds the area, projection, and height limitations for permitted obstructions (ZR § 37-726(c)); (3) more than 50 percent of the sidewalk frontage area is obstructed, and no portion of the unobstructed area has a width of at least eight feet (ZR § 37-721(a)); (4) the circulation paths at their narrowest points are five feet in width, less than the minimum eight feet required (ZR § 37-723); and (5) there are fewer than four trees (ZR § 37-742); and

WHEREAS, the applicant has identified the following specific non-compliances which necessitate the variance for the South Plaza: (1) the proposed baffle wall within the South Plaza is not a permitted obstruction and obstructs the visibility of the major portion of the plaza (ZR §§ 37-726 and 37-715); (2) less than 50 percent of the trees are planted flush at grade (ZR § 37-742); (3) the lawns at the west end exceed a height of six inches above the plaza surface (ZR § 37-742); and (4) permitted obstructions including planting beds and walls and expanded seating exceed 40 percent of the plaza area (ZR § 37-726(b)); and

WHEREAS, the Board agrees with DCP that this case, involving the modification of plaza and arcade conditions for a non-profit institution is a rare example of when a variance is an appropriate means of modifying a site under CPC's jurisdiction and there is limited applicability of such practice; and

WHEREAS, further, the Board notes that the proposed modifications are within the spirit of the plaza and arcade text; and

WHEREAS, the Medical Center proposes to occupy the building with its Ambulatory Care programs including the following: (1) the first floor and mezzanine will be occupied primarily by registration and pre-admission testing; (2) the 11th and 12th floors will be occupied by Dermatology; (3) the 13th floor will be occupied by Dialysis, Nephrology, and Hyperbaric services; (4) the 15th through 17th floors will be occupied by Rusk Home, a rehabilitation program; the 18th and 19th floors will be occupied primarily by the Cancer Center and Infusion; (5) the 20th floor will be occupied by Clinical Services; (6) the 22nd floor will be occupied by Clinical Labs;

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(7) the 23rd floor will be occupied by Endoscopy; and (8) the 2nd and 24th floors will be occupied by Infrastructure; and

WHEREAS, the applicant states that the following are the programmatic needs of the Medical Center: (1) to provide reasonable access to the building for Ambulatory Care Center patients who are visit the building for out-patient services but who may be frail and have mobility impairment; and (2) to enhance the open space environment for patients and the community; and

WHEREAS, the applicant states the following existing conditions limit the ability of the building to satisfy the Medical Center's programmatic needs: (1) the existing plazas and arcades designed nearly 50 years ago provide minimal amenities and landscaping; (2) both plazas have significant change in grade which impede access (the South Plaza is approximately four feet above the sidewalk, requiring a flight of stairs and a portion of the North Plaza is located 2'-6" below the sidewalk, requiring steps); (3) critical components of the Building's infrastructure and Verizon's facilities are located within the cellar, which precludes a re-grading of the South Plaza; (4) there is a distance of 56 feet between the North Plaza and the main entrance at East 38th Street; and (5) an existing exhaust vent faces the South Plaza and discharges large volumes of hot air from Verizon's generators, negatively affecting its habitability; and

WHEREAS, additionally, the applicant notes that there are unique vehicular traffic conditions adjacent to the site including that a portion of East 38th Street is a heavily used access route to the Queens-Midtown Tunnel ant that MTA buses use the lane in front of the buildings; and

WHEREAS, the applicant states that the noted physical constraints preclude the Medical Center from occupying the site in compliance with applicable zoning regulations in a way that would satisfy its primary programmatic needs of providing the Ambulatory Care Center's patients with appropriate and reasonable access to the building and enhancing the plazas and arcades to provide an improved environment for patients and community members; and

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

WHEREAS, the applicant identifies the following insufficiencies of a design that is fully compliant with zoning regulations: (1) the requirement to climb stairs and travel a distance of 56 feet between the main entrance and the East 38th Street curb; (2) the use of the East 38th Street curb lane for patient drop-off/pick-up would exacerbate existing traffic congestion, increase waiting times, and conflict with MTA bus use; and (3) the existing minimal amenities and landscaping is barren and uninviting; and

WHEREAS, the applicant asserts that, in contrast, the proposal will improve the site conditions and allow it to accommodate the Medical Center's programmatic needs; and

WHEREAS, the applicant proposes the following improvements to the plazas and arcades: (1) the North Plaza will include a driveway and canopy to create a convenient all-weather drop-off/pick-up area providing frail, elderly, and/or mobility-impaired patients with appropriate access;

(2) an accessible pedestrian ramp in the North Plaza will provide access from the sidewalk to the entrance and an ADA-lift will be installed within the South Plaza to provide access; (3) varied landscaping and seating will be introduced to the plazas to create a more inviting environment for patients and community members, a landscape buffer will separate pedestrians from traffic; (4) the South Plaza will have broad seating terraces and benches and a shaded tree-lined area; (5) a green-screen baffle wall within the South Plaza will protect the adjacent plaza from hot air emitted by the building's exhaust vent, which would improve the environment for landscaping; (6) the plazas will include improved lighting, public information signage, and bicycle racks; (7) the plazas will be resurfaced; and (8) a trellis will be installed in the South Arcade to provide shade and planters and seating will be added; and

WHEREAS, the applicant states that the following conditions which create non-compliances or increase the degree of existing non-compliance are necessitated by the Medical Center's programmatic needs; and

WHEREAS, specifically, the applicant states that the proposed driveway, passenger drop-off, and canopy, which are not permitted plaza obstructions, are needed to provide the Ambulatory Care Center's frail and mobility-impaired patients with immediate, protected access to the building from ambulances and other vehicles; and

WHEREAS, the applicant states that the configuration of the driveway, though designed with the minimum dimensions necessary to accommodate patient vehicles, constrains circulation paths within the plaza to widths of approximately five feet (at least one circulation with a width of eight feet is required) and the presence of the driveway contributes to the obstruction of the plaza's sidewalk frontage, and it limits the width of the access areas along this frontage to less than eight feet (the sidewalk obstruction is required to be limited to 50 percent of the sidewalk frontage and at least one unobstructed portion is to have a width of at least eight feet); and

WHEREAS, the applicant states that other modifications are necessitated by the goal of providing an appropriate and welcoming entry and departure for patients and of improving the open space experience for the community; and

WHEREAS, towards those goals, the applicant proposes the following: (1) the North Plaza will be planted with low greenery instead of trees to allow maximum access to sunlight (the text requires trees within the plaza); (2) the baffle wall will block hot air emitted from generators (the text prohibits such obstructions and requires visibility of the major portion of the plaza); (3) less than 50 percent of the trees within the South Plaza will be planted flush at grade because of existing below-grade conditions and the lawns would exceed a height of six inches above the plaza to allow a planting berm for trees; (4) new seating and landscape features within the South Plaza, which along with existing permitted obstructions exceed 40 percent of the plaza area, will significantly improve the plaza environment; and (5) the planters and movable seating in the South Arcade will make the area more inviting (the text requires that an arcade be unobstructed to a height of 12 feet); and

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WHEREAS, the Board acknowledges that the Medical Center, 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, the Board finds that the Medical Center's programmatic needs are legitimate, and agrees that the proposed modifications are necessary to address its needs, given the site's 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 Medical Center, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

WHEREAS, the applicant represents that the land uses surrounding the site are characterized by a mix of mid- and high-rise residential and mixed-use buildings, with commercial buildings to the north and medical and other institutional uses to the south and east; and

WHEREAS, the applicant asserts that the proposal will not alter the scale or envelope of the Building; and

WHEREAS, the applicant asserts that the proposal will enhance the open space to the benefit of the community by introducing landscaping, comfortable seating, and art to the plazas and arcades; and

WHEREAS, the applicant asserts that the design changes would transform the plazas and arcades from their current inaccessible and uninviting appearance to lush and diverse public spaces which are comfortable and aesthetically pleasing; and

WHEREAS, the applicant notes that the proposal has been reviewed by DCP to ensure that the plazas and arcades are as consistent as possible with the public policies served by the ZR's current design standards; and

WHEREAS, the applicant states that the proposed driveway within the North Plaza would reduce vehicular traffic congestion in the area around the Zoning Lot by replacing on-street patient drop-off/pick-up and reducing lane-changing maneuvers; and

WHEREAS, the applicant asserts that the driveway

will have little effect on pedestrians as pedestrian volumes on the block are relatively low for the area; and

WHEREAS, the applicant has agreed to employ a concierge to help direct vehicles and to keep the site well-lit; and

WHEREAS, the applicant asserts that the proposal will serve the goals of the 197-a Plan for the Eastern Section of Community District 6, including increasing the amount of useful public open space in the district; maintaining the character of the neighborhood while accommodating "specialized non-residential uses such as Bellevue/NYU Hospitals;" 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 proposal that would meet the programmatic needs of the Medical Center could occur given the existing conditions; and

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

WHEREAS, as to the minimum variance, the applicant states that it designed the driveway with the minimum dimensions necessary to satisfy the Medical Center's programmatic need for a patient drop-off area and that the curb cuts are of the minimum width to accommodate the turning radii of ambulances and other large medical transport vehicles, and the 22-ft. width of the internal driveway area is the minimum needed for two vehicle lanes – one for patient drop-offs/pick-ups and one for passing; and

WHEREAS, further, the applicant asserts that the dimensions of the canopy relate to those of the driveway and the existing arcade and were calculated to provide an adequate amount of weather protection for patients; and

WHEREAS, the applicant states that the other non-complying modifications to the plazas and arcades are the minimum necessary to enhance the open space environment for patients and community members within the design constraints created by the existing building; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Sections 617.6(h) and 617.2(h) 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. 12BSA026M, dated September 15, 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;

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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 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; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative 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 in a C1-9/C1-9 Transit Land Use District (TA) zoning district, the modification to existing plazas and arcades including the introduction of a driveway and other obstructions, contrary to ZR §§ 37-625 and 37-80, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received November 18, 2011”–eighteen (18) sheets; and *on further condition*:

THAT any change in control or ownership of the Medical Center’s condominium interest be reviewed and approved by the Board;

THAT the Medical Center will provide a full-time concierge who will help direct vehicles in the driveway;

THAT the above-noted conditions be noted on the certificate of occupancy;

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

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

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

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

Adopted by the Board of Standards and Appeals, December 13, 2011.

***The resolution has been revised to amend a whereas clause, which read in part: *WHEREAS, the applicant has agreed to comply...* and now reads: *WHEREAS, the applicant has agreed to employ a concierge to help direct vehicles and to keep the site well-lit; and* and to removed part of the 2nd condition. Corrected in Bulletin Nos. 1-3, Vol. 97, dated January 18, 2012.**