
BULLETIN

OF THE
NEW YORK CITY BOARD OF STANDARDS
AND APPEALS

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

Volume 91, No. 8

February 24, 2006

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JAMES CHIN

CHRISTOPHER COLLINS

Commissioners

Jeffrey Mulligan, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006

HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006

BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500

FAX - (212) 788-8769

CONTENTS

DOCKET	123
CALENDAR of April 11, 2006	
Morning	124
Afternoon	124

CONTENTS

MINUTES of Regular Meetings,
Tuesday, February 14, 2006

Morning Calendar 126

Affecting Calendar Numbers:

780-45-BZ	1818-1820 Bleecker Street, Queens
469-64-BZ	630-634 St. Ann's Avenue, Bronx
855-87-BZ	15 Irving Place, Staten Island
4-95-BZ	21/23 Hillside Avenue, Manhattan
384-74-BZ	3120 Heath Avenue, Bronx
1180-80-BZ	1 Tiffany Place, Brooklyn
132-97-BZ	227 Mansion Avenue, Staten Island
43-99-BZ	38-02 Northern Boulevard, Queens
148-03-BZ	111/13 West 28 th Street, Manhattan
145-05-BZY	135 North 9 th Street, Brooklyn
25-04-A	506 Bradford Avenue, Staten Island
26-04-A	510 Bradford Avenue, Staten Island
231-04-A	240-79 Depew Avenue, Queens
173-05-A	85-24 168 th Place, Queens

Afternoon Calendar132

Affecting Calendar Numbers:

361-04-BZ	75-48 Parsons Boulevard, Queens
386-04-BZ	22-44 119 th Street, Queens
94-05-BZ	1283 East 29 th Street, Brooklyn
195-05-BZ	2906 Quentin Road, Brooklyn
196-05-BZ	2315 Quentin Road, Brooklyn
269-04-BZ	37 Bridge Street, Brooklyn
89-05-BZ	18 Heyward Street, Brooklyn
329-05-BZ	460 Brielle Avenue, Staten Island
339-05-BZ	3574 Nostrand Avenue, Brooklyn

DOCKETS

New Case Filed Up to February 14, 2006

22-06-BZ

8 Gotham Avenue, Between Fane Court South Side and Shell Bank Creek, Block 8883, Lot 978, Borough of **Brooklyn, Community Board: 15**. Under 72-21-Proposed to erect enlargement over the front and rear existing one story portions of the building.

23-06-BZ

150-62 78th Road, Southwest corner of 153rd Street and 78th Road, Block 6711, Lot 84, Borough of **Queens, Community Board: 8**. Under 72-21-To legalize the enlargement of a three-story building housing a synagogue with an accessory Rabbi's apartment on the third floor.

24-06-A

227 Mansion Avenue, 94 ft N of the corner formed by the intersection of Cleveland & Mansion Avenues., Block 5206, Lot 26, Borough of **Staten Island, Community Board: 3**. Appeal-To legalize the placement of four on-site parking spaces on a segment of the site that lies within the bed of a mapped street.

25-06-BZ

2908 Nostrand Avenue, West side of Nostrand Avenue, distant 500' N from the corner of Nostrand & Ave P, Block 7690, Lot 79, Borough of **Brooklyn, Community Board: 15**. Under 72-21-Proposed to build a six story plus English Basement residential/community facility building.

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

APRIL 11, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 11, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

360-49-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt's Petroleum, Inc., owner.

SUBJECT – Application November 14, 2005 – Pursuant to Z.R.§72-21 for an extension of term of the previously granted variance permitting the use of the site as a gasoline service station with accessory uses which expired on February 25, 2005. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 69-05 Eliot Avenue, northern corner of Eliot Avenue and 69th Street, Block 2838, Lot 38, Borough of Queens.

COMMUNITY BOARD #5Q

APPEALS CALENDAR

14-06-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Jeanine & Dan Fitzgerald, lessee.

SUBJECT – Application January 24, 2006 – Proposed reconstruction and enlargement of an existing single family dwelling not fronting a mapped street contrary to GCL §36, Article 3.

PREMISES AFFECTED – 54 Graham Place, south side Graham Place, 158.86' west of Beach 204th Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

20-06-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Mary Jane & Anthony Fortunato, lessee.

SUBJECT – Application February 7, 2006 – Proposed reconstruction and enlargement of a single family dwelling not fronting a mapped street contrary to GCL §36, Article 3. Upgrade existing non-conforming private disposal system in the bed of the service road contrary to Building Department policy.

PREMISES AFFECTED – 38 Kildare Walk, west side of Kildare Walk, 92.51' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

30-06-A

APPLICANT – Eric Hecker, Esq. of Emery Celli, Brinkcerhoff & Abady, LLP for Lamar Outdoor Advertising, lessee, EG Clemente Bros. owner.

SUBJECT – Application filed on February 21, 2006- For an appeal of the Department of Buildings decision dated January 19, 2006 revoking Advertising sign approvals and permits under Application Nos. 5000684324 and 500684315 in that it allows advertising signs that are not within 1/2 mile of the NYC Boundary and as such are in violation of Section 42-55 of the Zoning Resolution.

PREMISES AFFECTED – 50 South Bridge Street, between Arthur Kill Road and Page Avenue, Block 7584, Lot 122, Borough of Staten Island.

COMMUNITY BOARD #3SI

APRIL 11, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, April 11, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

249-04-BZ

APPLICANT – Harold Weinberg, PE for Prince Parkside LLP, owner.

SUBJECT – Application July 13, 2004 – Zoning Variance (bulk) pursuant to ZR §72-21 to allow an enlargement of an existing non-complying UG 2 residential building in an R7-1 district; contrary to ZR §§ 23-121, 54-31, 23-462, 25-241, 23-22.

PREMISES AFFECTED – 205 Parkside Avenue, Brooklyn; located between Ocean Avenue and Parkside Court (Block 5026, Lot 302), Borough of Brooklyn.

COMMUNITY BOARD #9BK

293-05-BZ

APPLICANT – Sheldon Lobel, P.C., for 342 Realty, LLC, owner.

SUBJECT – Application September 29, 2005 - This application is filed pursuant to Z.R.§73-44 to request a Special Permit to allow a reduction of required parking for an as-of-right commercial building located within a C8-1 zoning district.

PREMISES AFFECTED – 8751 18th Avenue, between 18th Avenue and Bay 19th Street approximately 100 feet East of Bath Avenue, Block 6403, Lot 6, Borough of Brooklyn

COMMUNITY BOARD #11BK

19-06-BZ

CALENDAR

APPLICANT – Sheldon Lobel, P.C., for MiCasa HDFC, owner.

SUBJECT – Application January 27, 2006 – Under §72-21 to permit a proposed eight-story residential building which requires variance of Z.R. §§23-145 (floor area), 23-633 (height and setback) 25-25c (parking), 23-851(court regulations) and 23-861 (legal window), located in an R7-1 zoning district.

PREMISES AFFECTED – 745 Fox Street, entire block front of East 156th Street between Fox Street and Beck Street, Block 2707, Lot 11, Borough of The Bronx.

COMMUNITY BOARD #2BX

Jeff Mulligan, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, FEBRUARY 14, 2006 10:00 A.M.

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Chin and Commissioner Collins.

The motion is to approve the minutes of regular meeting of the Board held on Tuesday morning and afternoon December 6, 2005 and Wednesday morning December 7, 2005, as printed in the bulletin of December 15, 2005, Vol. 90, No. 50. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

780-45-BZ

APPLICANT – Anthony G. Mango, for Guiseppe Rapisardi and Ann Rapisardi, owners.

SUBJECT – Application June 23, 2005 – Pursuant to Z.R. §11-413 the legalization of the existing/proposed change of use within the same Use Group 16 from a beer storage of trucks to a plumbing contractor’s establishment with storage of plumbing tools, equipment, supplies and the storage of equipment vans. The premise is located in an R6B zoning district.

PREMISES AFFECTED – 1818-1820 Bleecker Street, east side of Bleecker Street, 155’ north of Seneca Avenue, Block 3435, Lots 21 and 22, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Anthony Mango.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and, pursuant to Z.R. § 11-413, a legalization of a change in use from a Use Group 16 beer storage facility, with parking for trucks, to a UG 16 plumbing contractor’s establishment, with accessory storage of tools, supplies, and parking of equipment vans; and

WHEREAS, a public hearing was held on this application on January 10, 2006, after due notice by publication in *The City Record*, and then to decision on February 14, 2006; and

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

WHEREAS, the subject premises is located on the east side of Bleecker Street, 155 ft. north of Seneca Avenue, and has a total lot area of approximately 4,694 sq. ft.; and

WHEREAS, the site is located within an R6B zoning district; and

WHEREAS, the site is improved upon with a 5,083 sq. ft.

one-story building currently occupied as a UG 16 plumbing contractor’s establishment; and

WHEREAS, on November 14, 1950, under the subject calendar number, the Board granted a variance to change the legal occupancy of the property from stables to beer storage; and

WHEREAS, the applicant represents that the current owner purchased the property in 2004, and has been occupying the property as a plumbing contractor’s establishment since then; and

WHEREAS, pursuant to Z.R. §11-413, the Board may authorize a change in the use previously granted by the Board to another use, so long as such change would be allowed pursuant to the applicable provisions of Article V of the ZR; and

WHEREAS, the applicable Article V provisions would allow the proposed change in use; and

WHEREAS, at hearing, the Board asked that the applicant modify the drawings to reflect correct door swing, adjacent buildings, and gates and doors that comply with the Board’s prior grant; and

WHEREAS, the applicant submitted revised plans that complied with these requests; and

WHEREAS, additionally, the Board asked the applicant to explain why a portion of the building that was proposed to be demolished as per the prior grant still remained on site, as well to explain a side canopy that was also not on the prior approved plans; and

WHEREAS, the applicant responded that the original structure slated to be demolished was in fact demolished, but it appeared that a subsequent structure was then constructed in its place; the applicant represents that the current owner will demolish and remove this structure; and

WHEREAS, the applicant also states that the side canopy will be removed; and

WHEREAS, based upon the submitted evidence, the Board finds the requested amendment appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on November 14, 1950, as subsequently amended, so that as amended this portion of the resolution shall read: “to permit a legalization of a change in use from a UG 16 beer storage facility, with parking for trucks, to a UG 16 plumbing contractor’s establishment, with accessory storage of tools, supplies, and parking of equipment vans, *on condition* that all work shall substantially conform to drawings as filed with this application, marked ‘Received February 13, 2006’–(4) sheets; and *on further condition*:

THAT the site shall remain graffiti-free and that any graffiti shall be removed within 24 hours;

THAT the hours of operation shall be from 8AM to 6 PM, Monday through Friday;

THAT there shall be no parking of vans in any portion of the open yard except during business hours;

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

THAT all conditions from prior resolutions not

MINUTES

specifically waived by the Board remain in effect;

THAT prior to issuance of a new certificate of occupancy, the rear frame construction building and the side canopy shall be removed, as indicated on the BSA-approved plans;

THAT a new certificate of occupancy be obtained within one year from the date of this grant;

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

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

(DOB Application No. 402025759)

Adopted by the Board of Standards and Appeals, February 14, 2006.

469-64-BZ

APPLICANT – Charles Washington, for Heinz Vieluf, owner.

SUBJECT – Application August 19, 2005 – Amendment to a variance Z.R. §72-21 to propose a second floor office addition in conjunction with existing first floor of food processing plant operation. The premise is located in a C2-4 in an R6 zoning district. The second floor enlargement is fully within the C2-4 portion of the lot.

PREMISES AFFECTED – 630-634 St. Ann’s Avenue, north east corner of Westchester Avenue at St. Ann’s Avenue, Block 2617, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance, to permit the construction of a second floor office addition to an existing one-story plus mezzanine food processing plant; and

WHEREAS, a public hearing was held on this application on January 24, 2006 after due notice by publication in *The City Record*, and then to decision on February 14, 2006; and

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

WHEREAS, the site is located partially within an R6 zoning district, and partially within a C2-4 zoning district; and

WHEREAS, the site is a 12,248 sq. ft. lot, improved upon with a 9,200 sq. ft. one -story plus mezzanine building currently occupied as a Use Group 17 food processing plant, which was

initially approved by the Board under the subject calendar number on July 31, 1964; and

WHEREAS, under BSA Cal. No. 856-68-BZ, the Board granted a new variance to allow a one and two story enlargement to the building; and

WHEREAS, on April 16, 1991, under the subject calendar number, the Board granted an amendment to legalize a further enlargement of the building, as well to approve construction of a loading berth; and

WHEREAS, the applicant represents that the owners of the food processing establishment need additional office space, necessitating an enlargement at the second floor; this enlargement would add 1,900 sq. ft. of commercial floor area to the subject building; and

WHEREAS, the applicant further represents that the proposed enlargement would be located within the C2-4 portion of the subject lot, and would comply with the C2-4 floor area requirements; and

WHEREAS, at hearing, the Board asked the applicant to clarify that the existing second floor was actually a mezzanine, as indicated on the certificate of occupancy; and

WHEREAS, the applicant responded by stating that the existing second level is in fact a mezzanine, and that this mezzanine will be incorporated as part of the proposed second floor enlargement; and

WHEREAS, based upon the submitted evidence, the Board finds the requested amendment appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on July 31, 1964, as subsequently amended, so that as amended this portion of the resolution shall read: “to permit the construction of a second floor office addition to an existing one-story plus mezzanine food processing plant, *on condition* that all work shall substantially conform to drawings as filed with this application, marked ‘Received August 19, 2005’–(3) sheets and ‘February 1, 2006’–(3) sheets; and *on further condition*:

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

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

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

(DOB Application No. 200866170)

Adopted by the Board of Standards and Appeals, February 14, 2006.

855-87-BZ

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

MINUTES

SUBJECT – Extension of Term of a Variance for an existing (UG16) warehouse with (UG6) office space on the mezzanine level. The term of variance expired on November 23, 2003. The premise is located in an R3A zoning district.

PREMISES AFFECTED – 15 Irving Place, Block 639, Lot 10, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the previously granted variance; and

WHEREAS, a public hearing was held on this application on January 24, 2006, after due notice by publication in *The City Record*, and then to decision on February 14, 2006; and

WHEREAS, Community Board No. 1, Staten Island, recommends approval of this application; and

WHEREAS, the premises is a 5,000 sq. ft. site located within an R3A zoning district, and is located on Irving Place between Van Duzer and Delford Streets; and

WHEREAS, the site is improved upon with a 3,870 sq. ft. one-story warehouse; and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1988, when, under the subject calendar number, the Board granted an application to permit the use of the site as a UG 16 warehouse; and

WHEREAS, subsequently, the term of this grant has been extended by the Board, most recently on December 6, 1994 for a term of 10 years, expiring on November 24, 2003; and

WHEREAS, based upon the submitted evidence, the Board finds the requested extension of term appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on November 15, 1988, so that as amended this portion of the resolution shall read: “to extend the term for ten years from November 24, 2003, to expire on November 24, 2013, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received September 12, 2005’-(5) sheets; and *on further condition*:

THAT the term of this grant shall expire on November 24, 2013;

THAT the hours of operation shall be from 8AM to 5 PM Monday through Friday;

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

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

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

jurisdiction objection(s) only; and

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

(DOB Application No. 5007795525)

Adopted by the Board of Standards and Appeals, February 14, 2006.

4-95-BZ

APPLICANT – Harry Meltzer, R.A., for 21 Hillside LLC/Allan Goldman, owner.

SUBJECT – Application June 27, 2005 – Pursuant to ZR §11-411 for the extension of term of a Use Group 8 public parking lot for 48 cars. The premise is located in an R7-2 zoning district.

PREMISES AFFECTED – 21/23 Hillside Avenue, south side of Hillside Avenue, 252’-2” east of Broadway, Block 2170, Lot 110, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the previously granted variance pursuant to Z.R. §11-411; and

WHEREAS, a public hearing was held on this application on January 24, 2006, after due notice by publication in *The City Record*, and then to decision on February 14, 2006; and

WHEREAS, Community Board No. 12, Manhattan, recommends approval of this application; and

WHEREAS, the premises is a 10,062 sq. ft. site located on the south side of Hillside Avenue, 252’-2” east of Broadway; and

WHEREAS, the site is located within an R7-2 zoning district, and is improved upon with a public parking lot (Use Group 8) for 48 vehicles; and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1959, when, under Cal. No. 357-59-BZ, the Board granted an application to permit the use of the site as a public parking lot; and

WHEREAS, subsequently, the term of this grant has been extended by the Board at various times, most recently under the subject calendar number on June 27, 1995 for a term of 10 years, expiring on June 27, 2005; and

WHEREAS, pursuant to ZR §11-411, the Board may permit an extension of term for a previously granted variance; and

MINUTES

WHEREAS, based upon the submitted evidence, the Board finds the requested extension of term appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on June 27, 1995, so that as amended this portion of the resolution shall read: “to extend the term for ten years from June 27, 2005, to expire on June 27, 2015, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received January 24, 2006’ - (1) sheet; and *on further condition*:

THAT the term of this grant shall expire on June 27, 2015;

THAT the garage shall contain a maximum of 48 parking spaces;

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

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

THAT the layout of the garage shall be as reviewed and approved by DOB;

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

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

(DOB Application No. 1434/64)

Adopted by the Board of Standards and Appeals, February 14, 2006.

384-74-BZ

APPLICANT – Sheldon Lobel, P.C., for R. M. Property Management, Inc., owner.

SUBJECT – Application May 18, 2005 – Extension of Term of a public parking lot and an Amendment of a Variance Z.R. §72-21 to increase the number of parking spaces and to change the parking layout on site. The premise is located in an R4A zoning district.

PREMISES AFFECTED – 3120 Heath Avenue, southwest corner of Shradly Place, Block 3257, Lot 39, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Josh Rinesmith.

VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to March 14, 2006, at 10 A.M., for decision, hearing closed.

1180-80-BZ

APPLICANT – SFS Associates, for One Tiffany Place

Condominium, owner.

SUBJECT – Application September 21, 2005 – Reopening for an amendment to the resolution to include superintendents’ apartment in the cellar of the existing building.

PREMISES AFFECTED – 1 Tiffany Place, Block 320, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Peter Hirshman.

ACTION OF THE BOARD – Laid over to April 11, 2006, at 10 A.M., for continued hearing.

132-97-BZ

APPLICANT – Alan R. Gaines, Esq., for Deti Land, LLC, owner; Fiore Di Mare LLC, lessee.

SUBJECT – Application June 7, 2005 – Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district.

PREMISES AFFECTED – 227 Mansion Avenue, Block 5206, Lot 26, Borough of Staten Island

COMMUNITY BOARD# 3SI

APPEARANCES –

For Applicant: Joseph D. Manno, Esq.

ACTION OF THE BOARD – Laid over to April 11, 2006, at 10 A.M., for continued hearing.

43-99-BZ

APPLICANT – Windels Marx Lane and MittenDorf, LLP, for White Castle Systems, Inc., owner.

SUBJECT – Application November 22, 2005 – Extension of Term/Waiver/Amendment to a previously granted special permit for a drive-through facility accessory to an eating and drinking establishment for an additional term of five years. The amendment is to install and electronic amplification menu board. The premise is located in a C1-2 in an R-4 zoning district.

PREMISES AFFECTED – 38-02 Northern Boulevard, southwest corner formed by the intersection of Northern Boulevard, Block 1436, Lot 1, Flushing, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to March 14, 2006, at 10 A.M., for adjourned hearing.

148-03-BZ

APPLICANT – Francis R. Angelino, Esq., for North West Real Estate, LLC, owner.

SUBJECT – Application August 18, 2005 – Reopening for an amendment to a previously approved five story and penthouse mixed commercial and residential building to add

MINUTES

a mezzanine in the residential penthouse, located in an M1-6 zoning district.

PREMISES AFFECTED – 111/13 West 28th Street, between Sixth and Seventh Avenues, 164’-4” west of Sixth Avenue, Block 804, Lots 1101-1105 (formerly 28 and 29), Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Francis R. Angelino and David W. Sinclair.

ACTION OF THE BOARD – Laid over to March 14, 2006, at 10 A.M., for continued hearing.

APPEALS CALENDAR

145-05-BZY

APPLICANT – Krzysztof Rostek, for Belvedere III, LLC, owner.

SUBJECT – Application June 9, 2005 – Proposed extension of time to complete construction to Z.R. §11-331 for a six family house.

PREMISES AFFECTED – 135 North 9th Street, north side, 125’ from northeast corner of Berry Street, Block 2304, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Krzysztof Rostek.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application under ZR § 11-331, to reinstate a building permit and extend the time for the completion of a new four-story building, under construction at the subject premises; and

WHEREAS, a public hearing was held on this application on December 13, 2005 after due notice by publication in *The City Record*, with continued hearings on January 24, 2005, and then to decision on February 14, 2006; and

WHEREAS, the site was inspected by a committee of the Board; and

WHEREAS, the applicant proposes to develop the subject site with a four-story, six unit mixed-use residential/community facility building, with a medical office on the first floor; and

WHEREAS, the subject premises is currently located within an R6B zoning district, but was formerly located within an R6 zoning district; and

WHEREAS, the proposed development complies with the former R6 zoning district bulk parameters as to floor area, height, and front yard; and

WHEREAS, however, on May 11, 2005 (hereinafter, the “Enactment Date”), the City Council voted to adopt the Greenpoint-Williamsburg Rezoning, which rezoned the site to

R6B, as noted above; and

WHEREAS, because the site is now within an R6B district, the proposed development would not comply with these bulk parameters, rendering it a non-complying building; and

WHEREAS, ZR § 11-30 et seq. sets forth the regulations that apply to the subject application for a reinstatement of a permit that lapses due to a zoning change; and

WHEREAS, Z.R. §11-331 reads: “If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations.”; and

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, Z.R. §11-31(a) reads: “For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes “complete plans and specifications” as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met.”; and

WHEREAS, the record indicates that on March 31, 2005, a new building permit (Permit No. 301822981-01-NB, the “NB Permit”) for the proposed development was lawfully issued to the owner of the premises by the Department of Buildings; and WHEREAS, turning to the substantive findings of ZR § 11-331, the applicant initially acknowledged that excavation has not been fully completed as of the Enactment Date; and

WHEREAS, the applicant claimed that the front of the site had not been excavated due to a need for access to the site, and for delivery of materials and heavy equipment; and

WHEREAS, the Board expressed concern about this fact,

MINUTES

noting that the plain language of ZR 11-331 requires that excavation be completed as of the Enactment Date; and WHEREAS, accordingly, the Board asked the applicant for further explanation as to why excavation had not been fully completed; and

WHEREAS, in response, the applicant submitted a statement from the project contractor, which notes that the excavation for the design construction of the project was entirely complete as of May 4, 2005, aside from excavation of the front of the site, which was where the entrance to the proposed basement was to be located; and

WHEREAS, the contractor also states that prior to the commencement of excavation, the site was full of debris and rubble from the prior building's, and the removal of this debris and the rubble was required; and

WHEREAS, the contractor states that after this occurred, the site was excavated fully for purposes of foundation construction, but the site was later backfilled as per instruction from DOB; and

WHEREAS, additionally, the project engineer states that no further excavation is required for structural or foundation elements; the only excavation that remains is backfill removal, and some soil removal for a footing for the staircase and front wall; and

WHEREAS, the applicant represents that should the NB Permit be reinstated, the developer would first proceed to finish the front foundation work for the staircase and front wall, and then proceed to remove the backfill in anticipation of basement construction; and

WHEREAS, the applicant further represents that all of this site-clearing, excavation, and backfill work occurred prior to the Enactment Date; and

WHEREAS, the Board accepts this explanation, and agrees that excavation was actually completed by the developer prior to the Enactment Date, aside from that portion of the excavation that was necessary to delay in order to provide site access for workers and equipment; and

WHEREAS, accordingly, the Board finds that the excavation requirement has been met; and

WHEREAS, the applicant represents that substantial progress had been made on foundations by the Enactment Date; and

WHEREAS, specifically, the applicant states that foundation work commenced on April 5, 2005, and, as of the Enactment Date, approximately 61 percent of the perimeter foundation walls and footings had been installed, and all of the soldier piles had been driven into the ground and concreted; and

WHEREAS, the applicant represents that 106 cubic yards of concrete were poured in furtherance of this construction, and that only 65 cubic yards are required to complete the foundation; and

WHEREAS, in support of the contention that concrete for the footings and walls was poured, the applicant has submitted a receipt from a concrete batching company that reflects that the concrete was delivered to the site prior to the Enactment Date; and

WHEREAS, as noted above, the applicant represents that the only remaining portion of the foundation to be completed is at the front, for the staircase and front wall; and

WHEREAS, in terms of time, the applicant represents that only eight days of foundation construction remain, out of a projected 31 total days; and

WHEREAS, the applicant represents that work on the foundation construction and excavation was stopped by DOB on May 5, 2005, but the stop work order was lifted in May 11, 2005; the above mentioned time calculation does not include these days; and

WHEREAS, in support of the claim that substantial progress had been made on foundations as of the Enactment Date, the applicant has submitted, among other items, photographs, and a foundation plan indicating the amount of foundation work that was completed as of the Enactment Date; and

WHEREAS, the applicant has also submitted an affidavit from the general contractor documenting the work completed on the proposed development as of the Enactment Date; and

WHEREAS, the Board has reviewed the affidavit and other evidence submitted, and agrees with the conclusion that excavation was complete and that substantial progress was made on the foundations as of the Enactment Date; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, thus, based upon its consideration of the arguments made by the applicant, as well as its consideration of the entire record, the Board finds that excavation was completed and that substantial progress was made on foundations as of the Enactment Date; therefore, the Board finds that the applicant has adequately satisfied the requirements set forth at ZR § 11-331; and

Therefore it is Resolved that this application made pursuant to ZR § 11-331, to renew NB Permit No. 301822981-01-NB, is granted, and said permit is reinstated for one term of six months, from the date of this grant, to expire on August 14, 2006.

Adopted by the Board of Standards and Appeals, February 14, 2006.

25-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT – Application February 11, 2004 – Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 506 Bradford Avenue, south side, 148' south of Drumgoole Road, Block 6946, Lot 36, Borough

MINUTES

of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to February
28, 2006, at 10 A.M., for decision, hearing closed.

26-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for
Michael Picciallo, owner.

SUBJECT - Application February 11, 2004 - Proposed
construction of a one family dwelling, located within the bed
of a mapped street, is contrary to Section 35, Article 3 of the
General City Law.

PREMISES AFFECTED - 510 Bradford Avenue, south side,
108' south of Drumgoole Road, Block 6946, Lot 38, Borough
of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to February
28, 2006, at 10 A.M., for decision, hearing closed.

231-04-A

APPLICANT - Joseph P. Morsellino, Esq., for Chri
Babatsikos and Andrew Babatsikos, owners.

SUBJECT - Application June 17, 2004 - Proposed one
family dwelling, located within the bed of a mapped street, is
contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 240-79 Depew Avenue, corner of
243rd Street, Block 8103, Lot 5, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Joseph Morsellino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to March 7,
2006, at 10 A.M., for decision, hearing closed.

173-05-A

APPLICANT - Stuart Klein for Trevor Fray, owner.

SUBJECT - Application July 28, 2005 - An appeal seeking a
determination that the owner of said premises has acquired a
common-law vested right to continue development
commenced under the prior R5 zoning district. Current

Zoning District is R4A.

PREMISES AFFECTED - 85-24 168th Place, west side of
168th Place, 200 feet south of the corner formed by the
intersection of 18th Place and Gothic Drive. Block 9851, Lot
47, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Christopher Slowik.

ACTION OF THE BOARD - Laid over to March
14, 2006, at 10 A.M., for continued hearing.

Jeffrey Mulligan, Executive Director.

Adjourned: 10:40 A.M.

REGULAR MEETING

TUESDAY AFTERNOON, FEBRUARY 14, 2006

1:30 P.M.

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Chin and Commissioner Collins.

ZONING CALENDAR

361-04-BZ

CEQR #05-BSA-061Q

APPLICANT - Eric Palatnik, P.C. for Parsons Estates, LLC,
owners.

SUBJECT - Application November 17, 2004 - under Z.R.
§72-21 - to permit a proposed three-story residential building
in an R4 district which does not comply with the zoning
requirements for floor area, wall height, sky exposure plane,
open space, lot coverage and the number of dwelling units;
contrary to Z.R. §23-141c, 23-631 and 23-22.

PREMISES AFFECTED - 75-48 Parsons Boulevard, 168.40'
north of 75th road, at the intersection of 76th Avenue; Block
6810, Lot 44, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough
Commissioner, dated October 29, 2004, acting on
Department of Buildings Application No. 401990770, reads,
in pertinent part:

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

2) Proposed wall height is contrary to ZR 23-631.

MINUTES

- 3) Proposed sky exposure plane is contrary to ZR 23-631.
- 4) Proposed open space is contrary to 23-141c.
- 5) Proposed lot coverage is contrary to 23-141c.
- 6) Number of dwelling units is contrary to 23-22.”; and

WHEREAS, this is an application made under Z.R. § 72-21 to permit, on a site within an R4 zoning district, the construction of a three-story residential building, which does not comply with applicable zoning provisions concerning Floor Area Ratio (FAR), wall height, sky exposure plane, open space, lot coverage, and number of dwelling units, contrary to ZR §§ 23-141(c), 23-631, and 23-22; and

WHEREAS, a public hearing was held on this application on August 16, 2005 after due publication in *The City Record*, with continued hearings on October 18, 2005, November 15, 2005, January 10, 2006, and then to decision on February 14, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin; and

WHEREAS, Community Board No. 8, Queens, by a vote of 18 in favor, and 16 opposed, recommends approval of this application; and

WHEREAS, the Queens Borough President also recommends approval of this application; and

WHEREAS, the subject premises is a vacant lot located on the west side of Parsons Boulevard, 168 ft. north of 76th Road, and has a total lot area of 16,512 sq ft.; and

WHEREAS, the lot is approximately 80 ft. wide and varies in depth from approximately 189 ft. to 232 ft.; and

WHEREAS, the proposed development is a three story residential building, which would be non-complying in the following respects: (1) 20 dwelling units – only 14 are permitted; (2) a FAR of 1.33 – 0.75 is the maximum permitted; (3) an Open Space Ratio of 0.47 – 0.55 is the minimum required; (4) lot coverage of 0.53 – 0.45 is the maximum permitted; (5) a wall height of 30 ft. – 25 ft. is the maximum permitted; and (6) a 90 degree sky exposure plane – an 80 degree sky exposure plane is the minimum required; and

WHEREAS, the applicant represents that the proposed development was designed to be in substantial compliance with the Predominantly Built Up Area (PBA) provisions that formerly applied to the site, as set forth at ZR 23-141(c); and

WHEREAS, Z.R. § 12-10 defines a PBA, in part, as a block entirely within an R4 or R5 zoning district, which can be no larger than four acres; and

WHEREAS, the PBA provisions allow for a greater FAR than permitted otherwise; specifically, a FAR of 1.35 is allowed for a PBA in an R4 zoning district, as opposed to a FAR of 0.75 on a block that does not meet the PBA definition; and

WHEREAS, the Board observes, and the applicant concedes, that the PBA regulations no longer apply to the site, because of a 1989 de-mapping action related to 76th Avenue which increased the size of the block to greater than

four acres; and

WHEREAS, the applicant alleges that the following are unique physical conditions that lead to practical difficulties in developing the subject site in strict compliance with underlying district regulations: (1) the site, up until the de-mapping action over 16 years ago, qualified for the bulk permitted under the PBA regulations; (2) the site is irregular in terms of its depth to width ratio; (3) the site is adjacent to a school, and is located near developments that contain a bulk greater than permitted, as well as near an intersection with a traffic signal; and

WHEREAS, for reasons set forth below, the Board does not agree that these alleged unique physical conditions create any practical difficulties in developing the site with a fully complying building, either standing alone or when considered in the aggregate; and

WHEREAS, at the outset, however, the Board notes that the applicant argues that because the proposed variances are area/bulk variances, and not use variances, a lesser standard of proof should be applied by the Board is assessing whether any practical difficulties exist on the site; and

WHEREAS, in support of this argument, the applicant cites to the recent decision *Pantelidis v. Board of Standards and Appeals*, 1/18/2006 NYLJ 19, (col. 1), 2005 WL 3722913, 2005 N.Y. Slip Op. (N.Y. Sup., Dec 23, 2005); and

WHEREAS, the applicant states that *Pantelidis* confirms that a lesser burden of proof for area variances (practical difficulties) versus use variances (unnecessary hardship) may be accepted by the Board; and

WHEREAS, while the Board has reviewed this Supreme Court level decision, it is aware that many appellate court decisions have clearly established that an application for a variance, whether bulk or use, must contain substantial evidence in support of each and every finding of ZR 72-21; and

WHEREAS, specifically, the Board cites to *Russo v. Board of Estimate of City of New York*, 84 A.D.2d 842, 444 N.Y.S.2d 175 (N.Y.A.D., 1981), *Galín v. Board of Estimate of City of New York*, 72 A.D.2d 114, 423 N.Y.S.2d 932 (N.Y.A.D., 1980), and *Feit v. Bennett*, 168 A.D.2d 495, 562 N.Y.S.2d 737, (N.Y.A.D., 1990); and

WHEREAS, thus, an applicant must still establish that the cited unique physical conditions cause the alleged practical difficulties in complying with the applicable bulk or density regulations; and

WHEREAS, in other words, some nexus between the alleged physical condition and the rationale for a particular variance must be proven; and

WHEREAS, merely showing how a lot differs from others without showing why such differences create practical difficulties is not sufficient; and

WHEREAS, additionally, some proof of practical difficulties must be submitted by the applicant: a lesser burden is not the equivalent of an absence of burden; and

WHEREAS, as to the first alleged unique condition, the applicant states that the de-mapping action in 1989, because it added area to the block that was formally designated as a street, rendered the subject block too large to fall within the

MINUTES

PBA definition and

WHEREAS, the Board observes that the de-mapping is not an actual unique physical condition that, in of itself, causes hardship; and

WHEREAS, the Board agrees that it has recognized unusual block history as a factor that may militate in favor of a finding that the site is distinguishable from others in the area; and

WHEREAS, notwithstanding this recognition, the Board still requires proof of actual unique physical features present at the site which cause practical difficulties; and

WHEREAS, the applicant cites to a variance granted by the Board under Cal. No. 105-03-BZ in support of the argument that the Board has accepted a site's prior entitlement to the bulk bonus in the PBA regulations as a unique physical condition that leads to practical difficulty; and

WHEREAS, however, a careful reading of this resolution reveals that the applicant's reliance on this particular grant is misplaced; and

WHEREAS, specifically, in the ninth recital, which is the operative recital where the Board specifically finds that the hardship requirement set forth at ZR 72-21(a) has been met, the Board cites to the specific unique physical conditions that were credited; these conditions were the site's shape, its location across from a non-conforming commercial use, and its location adjacent to three-family dwellings; and

WHEREAS, no mention is made of the inapplicability of the PBA regulations to the site in this operative recital; and

WHEREAS, the Board does credit the "unique history of the block" as a basis for uniqueness in the resolution under Cal. No. 222-03-BZ; and

WHEREAS, the Board notes the history of the block in Cal. No. 222-03-BZ is comparable to the history of the block in the instant case, in that a de-mapping action led to the block exceeding the maximum acreage requirement in the PBA definition such that no bulk increase was available; and

WHEREAS, however, in 222-03-BZ, the Board also cited to the significant slope conditions present at the site; these conditions alone were the actual hardship in this case; and

WHEREAS, accordingly, in alignment with its past decisions, the Board finds that an inability to use the PBA bulk bonus due to an alleged unique block history, is, in of itself, insufficient to sustain the uniqueness finding; and

WHEREAS, instead, the Board must be presented with proof of an actual unique physical condition that leads to premium construction costs or significant revenue inhibition, which in turn requires some relief; and

WHEREAS, thus, the applicant here must establish that the alleged site conditions compromise complying development, irrespective of any unusual block history or former ability to use the PBA bulk regulations; and

WHEREAS, as to the second cited basis of uniqueness, the applicant states that the irregular shape of the site leads to a development that possesses a "long" and "squat" floor plate, which accommodates only 14 dwelling units using the available FAR in a two-story configuration; and

WHEREAS, however, the Board observes that 14 dwelling units are permitted in the subject R4 zoning district, which means that even if one assumes that the floor plates are not optimum, the shape of the lot clearly does not inhibit a development with a complying amount of units or a complying amount of FAR; and

WHEREAS, a variance can not be sustained on the basis of generally applicable zoning regulations such as the FAR and density requirements in the subject R4 district; and

WHEREAS, here, the applicant concedes that the lot shape does not prevent a complying building from being constructed; and

WHEREAS, confronted with this reality, the applicant makes the supplemental argument that a complying development would result in a building with most of the units at the ground floor, which the applicant states is the "most undesirable location" for dwelling units; and

WHEREAS, the applicant states that the diminished revenue from the ground floor units compromises the viability of a complying development; and

WHEREAS, the applicant attempted to support this statement through the provision of financial analyses, which, as discussed in detail below, the Board declines to credit; and

WHEREAS, however, even if the Board found these analyses sound, the Board disagrees with the underlying premise that the lot shape imposes a greater hardship on complying development than a lot with a more regular shape, as to the location of the units within the building; and

WHEREAS, the Board first observes that the lot is reasonably wide and very deep, such that it does not impose any site planning constraints that inhibit construction of a complying development; and

WHEREAS, the Board also observes that the irregular shape results from the varying depth of the site to the rear lot line, and that the actual lot area of the irregularity is around 1,400 sq. ft.; that is, the lot's depth is regular except for small portion at the rear; and

WHEREAS, if this portion is ignored, then the developable portion of the site is 80 ft. wide by 189 ft. deep along both side lots line, which is a large rectangle without any apparent hardship; and

WHEREAS, a two-story development constructed within this rectangle with the complying density and FAR would still result in many of the units being placed on the ground floor, due to the perimeter wall height limitation in the R4 district at 25 ft.; and

WHEREAS, thus, there is nothing about the lot shape that results in practical difficulties as to the location of the units within the building; rather, as noted above, it is still a function of the generally applicable zoning parameters of the district, which is not an acceptable basis for hardship; and

WHEREAS, the applicant made the additional argument that a two-story complying development is not in keeping with the character of the larger residential developments nearby, but the Board does not find this to be a relevant consideration, because there is no character finding that must be met to proceed with as of right development; and

WHEREAS, even though the Board disagrees that the

MINUTES

shape of the lot creates practical difficulties in developing the site with a two-story complying building, the Board suggested to the applicant at hearing that a three-story complying building could be developed on the site, since the R4 district permits a total building height of 35 ft.; and

WHEREAS, assuming *arguendo* that a two-story building results in a hardship because more units have to be placed on the ground floor, a three-story building would alleviate this hardship; and

WHEREAS, the applicant's own three-story proposal is an implicit acknowledgement of this fact; and

WHEREAS, however, upon submission of plans for a complying three-story development that provided 12 units, with eight of the units on the second or third floors, the applicant argued that such plans reflected a building design that is "aesthetically unappealing", due to the application of the R4 sky exposure plane requirements; and

WHEREAS, the applicant also argues that such a building can not realize a reasonable return because 33 percent of the units are at the ground floor; and

WHEREAS, while the applicant contends that the design of the complying three-story building is unappealing, no evidence to support this statement has been provided, nor has any argument been made as to how this would impact the viability of such a building; and

WHEREAS, further, leaving aside whether the three-story building is in fact unattractive in terms of design, the Board rejects this argument as irrelevant, because no explanation has been provided as to how the shape of the site constrains the building design such that only an unattractive building can be developed on the site; and

WHEREAS, as noted above, the developable portion of the site is large enough to accommodate a building that complies with the as of right bulk and density parameters, and there is nothing that prevents a well-designed building from being constructed; and

WHEREAS, the Board also rejects the argument that a three-story complying building can not realize a reasonable return because 33 percent of the units will be on the ground floor; and

WHEREAS, again, the Board observes that the applicant has failed to explain how the site's shape creates the alleged problem of 33 percent of the units being located on the ground floor; and

WHEREAS, if the site were a perfect rectangle, 33 percent of the units would still be located on the ground floor of a complying three-story building; and

WHEREAS, finally, the Board observes that all residential buildings that contain units on the ground floor gain less revenue from such units; and

WHEREAS, this condition is thus common to all residential development and has no specific relationship to the shape of the lot; and

WHEREAS, the Board also rejects the applicant's third alleged basis of uniqueness, namely, that the site suffers a hardship because of its proximity to over-bulk buildings, an intersection, and community facility uses; and

WHEREAS, the applicant states that the site is situated

immediately adjacent to developments that were built to an FAR that is significantly greater than permitted in the subject R4 zoning district; and

WHEREAS, the applicant alleges that these structures "dwarf" the site; and

WHEREAS, the Board finds this claim spurious, since the site is actually adjacent to a vacant lot on one side and a two-story school on the other; and

WHEREAS, while there is a large scale residential development to the rear of the site that was built in excess of the permitted R4 district bulk through approval from the City Planning Commission, with nine and 13 story buildings, given the site's frontage on Parsons Boulevard and the lower scale on either side of the site, there is no basis for the claim that site is "dwarfed" or otherwise negatively impacted by this development; and

WHEREAS, the Board also notes that the irregularity of the depth of the site that the applicant claims as hardship actually acts as a buffer between any development on the site and the buildings to the rear, in that it affords an average rear yard depth of approximately 92 ft., which well exceeds the required rear yard depth of 30 ft.; and

WHEREAS, the Board also observes that due to the significant depth of the site, a complying building could easily be set back from the front lot line, which would mitigate any impact that proximity to the intersection might have; and

WHEREAS, the Board further notes that the applicant's proposed variance building is only 5 ft. higher than a complying three-story building, which is not so significant of an increase that one could conclude that any negative effect that the buildings to the rear had on the site would be mitigated; this further weakens the rationale of the applicant's contention; and

WHEREAS, the applicant also states that the adjacency of the site to a school further inhibits complying residential development; and

WHEREAS, again, the Board disagrees, and notes that schools are community facility uses that are presumed by the Zoning Resolution to not create an objectionable influence on residence districts; and

WHEREAS, as with the PBA regulations, the applicant cites to the Board's grant under Cal No. 105-03-BZ, for the proposition that the Board has, in the past, credited a site's locational difficulties as a contributing factor towards practical difficulties; and

WHEREAS, however, in that case, unlike here, the Board found that the site actually suffered a hardship from its irregular shape; and

WHEREAS, moreover, the Board also cited to a commercial use across from the site, which is often not compatible with proposed residential uses, unlike the adjacent residential and community facility uses here; and

WHEREAS, the Board further notes that the site that the Board considered under 105-03-BZ was a 20 ft. wide by approximately 100 ft. deep lot, which is much smaller than the subject site; development could not be repositioned within the site and still comply with applicable yard regulations to

MINUTES

avoid the negative impacts of the adjacent uses, unlike here; and

WHEREAS, finally, the Board notes that it recently rejected the argument that proximity to an intersection could serve as the basis of hardship, under Cal. No. 118-03-BZ; and

WHEREAS, specifically, the Board rejected the argument of the applicant in 118-03-BZ that the location of the premises on an allegedly busy commercial intersection constituted a unique physical conditions; and

WHEREAS, the Board noted that this applicant had failed to prove that the intersection was any more busy than numerous others within the neighborhood, and that expanding the definition of uniqueness to include location of a lot at a busy intersection in a city with innumerable busy intersections is contrary to the definition of what is unique; and

WHEREAS, the Board rejects the instant applicant's argument as to the impact of the proximity of the subject site to the intersection for the same reasons; and

WHEREAS, for all of the reasons set forth above, the Board finds that the applicant has failed to meet the finding set forth at Z.R. § 72-21(a); and

WHEREAS, because the applicant has failed to provide substantial evidence in support of the finding set forth at Z.R. §72-21(a), the application also fails to meet the finding set forth at Z.R. §72-21(b); and

WHEREAS, however, even if the Board assumed that any of claimed bases of uniqueness were legitimate, the Board observed numerous deficiencies in the submitted financial analyses; and

WHEREAS, specifically, the Board has concerns regarding: (1) the claimed site valuation; (2) certain assumptions made in the sell-out value per square foot, per floor; and (3) the claimed price differential between the first and upper floors; and

WHEREAS, the Board notes that the site value was initially estimated by the applicant at \$1,650,000 (or \$100.00 per sq. ft.), but was not credibly established by the site comparables; and

WHEREAS, specifically, the Board notes that of the six comparable sites presented, five are considerably smaller (ranging in size from 1,470 sq. ft. to 6,262 sq. ft., versus the subject site's 16,512 sq. ft.); the Board does not consider these sites truly comparable; and

WHEREAS, moreover, one comparable site is 161,000 sq. ft, which is about ten times the size of the subject lot and is likewise not really comparable; and

WHEREAS, the Board also observes that a lack of true comparability also plagues the sites chosen by the applicant to establish the residential sales amounts for the proposed development, which was presented to the Board as \$327 per sq. ft.; and

WHEREAS, the Board further notes that operating expenses for the as-of-right scheme appear high at 42% of effective income, which depresses the return; and

WHEREAS, the ratio of expenses to effective income that the Board typically sees for new construction is closer to 30 to 35 percent especially considering the any construction

on the site is new; and .

WHEREAS, as to the difference in sell-out price between the ground floor units and upper floor units, the applicant approximates such difference at 25 percent; and

WHEREAS, however, as conceded by the applicant, the data used to support this alleged differential is from 1988 to 2003, which the Board finds to be out of date; and

WHEREAS, more troubling is the fact that if the second floor sell-out value (\$375) is ascribed to the ground floor units in a complying FAR scheme, the additional revenue would not provide a reasonable return; and

WHEREAS, this suggests that other variables in the analysis, such as site valuation or operating expenses, need adjusting, as discussed above, and that the site suffers no actual hardship, but, like all sites in the area, is in a zoning district that provides arguably inadequate FAR, based upon the market costs of land and construction; and

WHEREAS, the Board notes that a variance may not be predicated on a combination of market conditions and existing zoning, as this effect is common to all sites within a particular zoning district; the appropriate course of action in such an instance is to obtain a rezoning through the City Planning Commission; and

WHEREAS, in sum, the Board was not persuaded by the financial information presented by the applicant, and asked for, but did not receive, cogent refinements to the initial study; and

WHEREAS, thus, for all of the reasons set forth above, the Board finds that the applicant has failed to meet the finding set forth at Z.R. § 72-21(b); and

WHEREAS, since the application fails to meet the findings set forth at Z.R. § 72-21 (a) and (b), it must be denied; and

WHEREAS, because the Board finds that the application fails to meet the findings set forth at Z.R. § 72-21(a) and (b), which are threshold findings that must be met for a grant of a variance, the Board declines to address the other findings.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated October 29, 2004, acting on Department of Buildings Application No. 401990770, is sustained and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, February 14, 2006.

386-04-BZ

CEQR #05-BSA-069Q

APPLICANT – Rothkrug, Rothkrug, Weinberg & Spector, for PSCH, Inc., owner.

SUBJECT – Application November 9, 2004 – under Z.R. §72-21 to permit the proposed enlargement and development of an existing community facility, located in M1-1 zoning district, which does not comply with the zoning requirements for accessory off-street loading berth, waterfront yards, total height and parking, is contrary to Z.R. §44-52, §62-331, §62-34, §62-441 and §44-21.

PREMISES AFFECTED – 22-44 119th Street, corner of 23rd

MINUTES

Avenue, Block 4194, Lot 20, 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 Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated December 9, 2005, acting on Department of Buildings Application No. 401963586, reads, in pertinent part:

“Proposed reduction in required accessory parking, for Use Group 6 (B-1 parking use) in an M1-1 zoning district requires a special permit from the [BSA], pursuant to Section 73-44 ZR.”; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within an M1-1 zoning district, a reduction in the required number of accessory parking spaces for an existing not-for-profit office use from 88 to 44, contrary to Z.R. § 44-21; and

WHEREAS, the Board notes that the subject application was initially filed as a variance under ZR § 72-21; said application asked for waivers as to height, yards, and loading berths in addition to the parking waiver; and

WHEREAS, after accepting direction from the Board staff as to the availability of the height and yard waivers through an application at the City Planning Commission and agreeing to the provision of a loading berth, the applicant revised the application; and

WHEREAS, a public hearing was held on this application on November 15, 2005, after due notice by publication in *The City Record*, with a continued hearing on January 10, 2006, and then to decision on February 14, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Commissioner Chin; and

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

WHEREAS, the subject site is located at the northwest corner of the intersection of 23rd Avenue and 119th Street, and has a lot area of 43,832 sq. ft. (approximately 3,400 of this lot area is underwater, as the site abuts Flushing Bay); and

WHEREAS, the site is currently occupied by a 11,016 sq. ft. one-story plus mezzanine building, with 30 non-required accessory parking spaces; and

WHEREAS, the building is currently owned and occupied by a not-for-profit organization for Use Group 6 office purposes; the not-for-profit currently employs 140 people; and

WHEREAS, the applicant represents that the site is proposed to be developed with a four-story, 25,324 sq. ft.

expansion to the existing building, which would necessitate 88 required accessory parking spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject M1-1 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for Use Group 6 uses in the B1 parking category; for the M1-1 zoning district and the subject UG 6 use, the Board may reduce the required parking from 1 space per 600 sq. ft. of floor area to 1 space per 300 sq. ft. of floor area; and

WHEREAS, the applicant represents that assuming a special permit is obtained, the site will be developed with a 59 space accessory parking lot; the parking will be attended; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the proposed UG 6 use in the B1 parking category is contemplated in good faith; and

WHEREAS, the applicant has submitted sufficient evidence of the good faith of the not-for-profit in pursuing the proposed UG 6 office use; in particular, the Board observes that the not-for-profit currently occupies the site and the building proposed to be enlarged, and that the applicant has submitted documentation as to the need for a larger office and training space based upon the program of the not-for-profit; and

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

WHEREAS, in response to the Board’s concerns regarding parking, the applicant prepared a person, vehicular trip and parking accumulation analysis based upon a transportation survey for the existing office use; and ; and

WHEREAS, the analysis revealed that the proposed development would generate a total of 103 person trips and 55 vehicle trips during both the AM (8AM to 9AM) and PM (5PM to 6PM) peak hours; and

WHEREAS, the analysis also revealed that ten additional spaces would be required on-site to accommodate the increased trip generation; and

WHEREAS, the applicant concludes that since the proposal is to increase the amount of spaces to 59, any increased demand can be accommodated on-site; and

WHEREAS, based upon this study, the Board agrees that the accessory parking space needs of the not-for-profit will be addressed even with the parking reduction; and

WHEREAS, the Board also expressed concern about the proposed layout of the accessory parking lot, and suggested that the layout be approved by DOB subsequent to the Board grant; and

WHEREAS, the applicant agreed to this suggestion, and placed a note on the site plan indicating the gross calculations for the proposed accessory parking and the accessory loading berth; 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

MINUTES

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 Z.R. §§ 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. 05BSA069Q dated July 26, 2005; 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 Z.R. §§ 73-44 and 73-03, to permit, within an M1-1 zoning district, a reduction in the required number of accessory parking spaces an existing not-for-profit office use from 88 to 44 to, contrary to Z.R. § 44-21; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received February 10, 2006–(1) sheet and *on further condition*:

THAT there shall be no change in ownership of the site or the building without prior application to and approval from the Board;

THAT a minimum of 44 and a maximum of 59 attended parking spaces shall be provided in the accessory parking lot;

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, February 14, 2006.

94-05-BZ

APPLICANT – Eric Palatnik, P.C., for Abraham Bergman, owner.

SUBJECT – Application April 20, 2005 – under Special Permit ZR §73-622 to permit the enlargement of a single family residence to vary ZR sections 23-141 for the increase in floor area and open space, 23-461 for less than the required side yards and 23-47 for less than the required rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1283 East 29th Street, East 29th Street, north of Avenue M, Block 7647, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Commissioner Chin and Commissioner Collins.....3

Negative: Vice-Chair Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 8, 2005, acting on Department of Buildings Application No. 301909585, reads, in pertinent part:

- “1. Proposed Floor Area Ratio is contrary to ZR 23-141.
 2. Proposed rear yard is contrary to ZR 23-47.
 3. Proposed open space is contrary to ZR 23-141.
 4. Proposed side yard is contrary to ZR 23-461”;
- and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio (FAR), open space, rear yard, and side yards, contrary to Z.R. §§ 23-141, 23-47 and 23-461; and

WHEREAS, a public hearing was held on this application on November 22, 2005, after due notice by publication in *The City Record*, with continued hearings on January 24, 2006 and then to decision on February 14, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

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

WHEREAS, the subject lot is located on East 29th Street, north of Avenue M; and

MINUTES

WHEREAS, the subject lot has a total lot area of 2,800 sq. ft.; 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 1,392 sq. ft. (0.49 FAR) to 2,800 sq. ft. (1.01 FAR); the maximum floor area permitted is 1,400 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will decrease the open space ratio from 145% to 119%; 150% is the minimum required; and

WHEREAS, the proposed enlargement will extend the currently non-complying side yard of 1'-6"; a minimum side yard of 5 ft. is required; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will result in a rear yard of 24'-10"; a rear yard of 30'-0" is required; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, at hearing, the Board asked the applicant to explain whether the proposed enlarged home would comply with any applicable perimeter wall heights requirements; and

WHERE, the applicant clarified that because the home is within an R2 zoning district, it is not subject to a perimeter wall height requirement, but is subject to a street wall height requirement, with which it complies; and

WHEREAS, 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 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 Z.R. §§ 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 Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio, lot coverage, and side yards, contrary to Z.R. §§ 23-141, 23-47 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 January 31, 2006"--(8) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises shall not exceed 1.01;

THAT the maximum floor area in the attic shall be 681.2 sq. ft.;

THAT the use and layout of the cellar shall be as approved by DOB;

THAT any porch, shed or garage shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction 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; 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, February 14, 2006.

195-05-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Steven Wemreb and Raizy Weinreb, owner.

SUBJECT – Application August 17, 2005 - Pursuant to ZR §73-622 for the enlargement of an existing one family residence which creates non compliances with respect to floor area, lot coverage and open space as per ZR 23-141 and less than the minimum required side yard as per ZR 23-48. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 2906 Quentin Road, Quentin Road between East 29th Street and Nostrand Avenue, Block 6812, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

THE RESOLUTION -

MINUTES

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated October 28, 2005, acting on Department of Buildings Application No. 301968967, reads, in pertinent part:

“Proposed enlargement . . .

1. Creates non-compliance with respect to Floor Area by exceeding the allowable Floor Area Ratio and is contrary to Section 23-141 of the Zoning Resolution.
2. Creates non-compliance with respect to the lot coverage . . . and is contrary to Section 23-141 of the Zoning Resolution.
3. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of Section 23-48 of the Zoning Resolution. 10'-0" total; 5'-0" min.”; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio (FAR), lot coverage, and side yards, contrary to ZR §§ 23-141 and 23-48; and

WHEREAS, a public hearing was held on this application on January 31, 2006, after due notice by publication in *The City Record*, and then to decision on February 14, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

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

WHEREAS, the subject lot is located on Quentin Road between East 29th Street and Nostrand Avenue, approximately 33 ft. east of East 29th Street; and

WHEREAS, the subject lot has a total lot area of 2,500 sq. ft.; 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 1,709 sq. ft. (0.68 FAR) to 2,530 sq. ft. (1.01 FAR); the maximum floor area permitted is 1,250 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will increase the lot coverage to 47 percent; 35 percent is the maximum permitted; and

WHEREAS, the proposed enlargement will extend the currently non-complying side yard of 1'-6"; a minimum side yard of 5 ft. is required; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, 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 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 Z.R. §§ 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, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio, lot coverage, and side yards, contrary to ZR §§ 23-141 and 23-48; *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 18, 2005”-(1) sheet, “February 7, 2006”-(6) sheets and “February 14, 2006”-1 sheet ; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises shall not exceed 1.01;

THAT the maximum floor area in the attic shall be 161 sq. ft.;

THAT the use and layout of the cellar shall be as approved by DOB;

THAT any porch, shed or garage shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction 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; 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, February 14, 2006.

196-05-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Leon Kamkhatchi and Pnina Fani Kamkhatchi, owner.

SUBJECT – Application August 17, 2005 – ZR §73-622 for the enlargement of an existing one family residence which creates non compliances with respect to floor area, lot coverage and open space as per ZR §23-141 and less than the minimum required side yard as per ZR §23-48. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 2315 Quentin Road, Quentin

MINUTES

Road between East 23rd Street and East 24th Street, Block 6786, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 19, 2005, acting on Department of Buildings Application No. 301969671, reads, in pertinent part:

“Proposed enlargement . . .

1. Creates non-compliance with respect to Floor Area by exceeding the allowable Floor Area Ratio and is contrary to Section 23-141 of the Zoning Resolution
2. Creates non-compliance with respect to the lot coverage and is contrary to Section 23-141 of the Zoning Resolution.
3. Creates non-compliance with respect to the side yard by not meeting the minimum requirement of Section 23-461 of the Zoning Resolution.”; 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 an existing single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio (FAR), lot coverage, and side yards, contrary to ZR §§ 23-141 and 23-461; and

WHEREAS, a public hearing was held on this application on January 31, 2006, after due notice by publication in *The City Record*, and then to decision on February 14, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

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

WHEREAS, the subject lot is located on Quentin Road between East 23rd and East 24th Streets, approximately 52 ft. west of East 24th Street; and

WHEREAS, the subject lot has a total lot area of 2,800 sq. ft.; 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 1563 sq. ft. (0.56 FAR) to 2541 sq. ft. (0.91 FAR); the maximum floor area permitted is 1,400 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will increase the lot coverage to 50 percent; 35 percent is the maximum permitted; and

WHEREAS, the proposed enlargement will extend the currently non-complying side yard of 3 ft.; a minimum side yard of 5 ft. is required; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, 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 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 Z.R. §§ 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, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio, lot coverage, and side yards, contrary to ZR §§ 23-141 and 23-461; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received August 17, 2005”-2 sheets and “November 18, 2005”- (5) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises shall not exceed 0.91;

THAT the use and layout of the cellar shall be as approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction 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; 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, February 14, 2006.

269-04-BZ

APPLICANT – Law Office of Howard Goldman, LLC, for 37

MINUTES

Bridge Street Realty, Corp., owner.

SUBJECT – Application August 2, 2004 – under Z.R. §72-21 to permit the conversion of a partially vacant, seven-story industrial building located in a M1-2 and M3-1 zoning district into a 60 unit loft style residential dwelling in the Vinegar Hill/DUMBO section of Brooklyn.

PREMISES AFFECTED - 37 Bridge Street, between Water and Plymouth Streets, Block 32, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Chris Wright.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to February 28, 2006, at 1:30 P.M., for decision, hearing closed.

89-05-BZ

APPLICANT – Stadtmauer Bailkin, LLP (Steven M. Sinacori, Esq.) for 18 Heyward Realty, Inc., owner.

SUBJECT – Application April 12, 2005 - under Z.R. §72-21 to allow an enlargement of the rear portion of an existing five-story community facility/commercial building; site is located in an R6 district; contrary to ZR §24-11, 24-37 and 24-33.

PREMISES AFFECTED – 18 Heyward Street, Heyward Street, between Bedford and Wythe Avenues, Block 2230, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Richard Bowers, Jack Freeman and Robert Scrano Jr.

For Opposition: Kenneth Fisher.

ACTION OF THE BOARD – Laid over to April 11, 2006, at 1:30 P.M., for continued hearing.

329-05-BZ

APPLICANT – Wireless EDGE Consultants, LLC, for NYC Health and Hospital Corporation, owner.

SUBJECT – Application November 15, 2005 – Under Z.R. §73-30 – Proposed Multiple Carrier Monopole is contrary to Z.R. §22-00 and therefore not allowable within the R3-2 district (Special Natural Area – NA1).

PREMISES AFFECTED – 460 Brielle Avenue, between Brielle Avenue and Rockland Avenue, Block 955, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: John Arthur.

For Opposition: Grace Rindsberg.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to February

28, 2006, at 1:30 P.M., for decision, hearing closed.

339-05-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Lev Bais Yaakov, Inc., owner.

SUBJECT – Application November 25, 2005 – Under Z.R. §72-21 – To permit the proposed construction of a Yeshiva and is contrary to Z.R. Sections 33-121 (floor area) and 33-441 (front setbacks).

PREMISES AFFECTED – 3574 Nostrand Avenue, south side of Nostrand Avenue, north of Avenue W, Block 7386, Lot 131, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik, Rabbi Shmiel Devtsch, Ephraim Merenbem, Feyie Hallusdan, David Carlebach, Michael Deutsch and Ariva Ziegler.

For Opposition: Howard B. Weber, Mark Schilps and Arlene Reiman.

ACTION OF THE BOARD – Laid over to April 4, 2006, at 1:30 P.M., for continued hearing.

Jeffrey Mulligan, Executive Director

Adjourned: 3:20 P.M.