
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 97, No. 8

February 22, 2012

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

Commissioners

Jeffrey Mulligan, *Executive Director*

Becca Kelly, *Counsel*

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

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

CONTENTS

DOCKET	98/99
CALENDAR of March 6, 2012	
Morning	100
Afternoon	100/101

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, February 14, 2012**

Morning Calendar102

Affecting Calendar Numbers:

141-66-BZ 338 East 9th Street, Manhattan
248-75-BZ 1621 York Avenue, aka 436 East 86th Street, Manhattan
58-10-BZ 16 Eckford Street, Brooklyn
764-56-BZ 200-05 Horace Harding Expressway, Queens
548-79-BZ 247-251 West 29th Street, Manhattan
8-10-BZ 58-14 Beach Channel Drive, Queens
187-10-BZ 40-29 72nd Street, Queens
45-07-A 1472 East 19th Street, Brooklyn
15-11-A 860 Sixth Avenue, Manhattan
75-11-A 2230-2234 Kimball Street, Brooklyn
119-11-A 2230-2234 Kimball Street, Brooklyn

Afternoon Calendar106

Affecting Calendar Numbers:

231-10-BZ 430-440 Park Avenue, Brooklyn
73-11-BZ 70 Tennyson Drive, Staten Island
115-11-BZ 1110 East 22nd Street, Brooklyn
121-11-BZ 351 Convent Avenue, aka 420 West 145th Street and 418 West 145th Street,
Manhattan
31-10-BZ 85-15 Queens Boulevard, aka 51-35 Reeder Street, Queens
87-11-BZ 159 Exeter Street, Brooklyn
96-11-BZ 514-516 East 6th Street, Manhattan
120-11-BZ 52-11 29th Street, Queens
130-11-BZ 3600 Bedford Avenue, Brooklyn
159-11-BZ 212-01 26th Avenue, Queens
176-11-BZ 150 Norfolk Street, Brooklyn
179-11-BZ 65-45 Otto Road, Queens
184-11-BZ 945 East 23rd Street, Brooklyn

Correction122

Affecting Calendar Numbers:

395-60-BZ, Vol. I 2557-2577 Linden Boulevard, Brooklyn
395-60-BZ, Vol. II 2557-2577 Linden Boulevard, Brooklyn
321-63-BZ 1775 Grand Concourse, Bronx
54-11-BZ 6010 Bay Parkway, Brooklyn
166-11-BZ 1109 Second Avenue, aka 245 East 58th Street, Manhattan

DOCKET

New Case Filed Up to February 14, 2012

29-12-A

159-17 159th Street, Meyer Avenue, east of 159th Street, west of Long Island Railroad., Block 12178, Lot(s) 82, Borough of **Queens, Community Board: 12**. Overturn DOB Commissioner's padlock order of closure (and underlying OATH report and recommendation) with respect to property, which has applicant contends has a "grandfathered" legal pre-existing (pre-zoning) commercial/industrial use which pre-dated the applicable zoning and should be allowed to continue. R-3-2 district.

30-12-BZ

142-41 Roosevelt Avenue, northwest corner of Roosevelt Avenue and Avenue B., Block 5020, Lot(s) 34, Borough of **Queens, Community Board: 7**. Special Permit ZR§73-49 to permit accessory parking on the roof of an existing one-story supermarket, contrary to ZR§36-11. R6/C2-2 zoning district R6/C2-2 district.

31-12-BZ

280 West 155th Street, corner of Frederick Douglass Boulevard and West 155th Street., Block 2040, Lot(s) 48,61 &62, Borough of **Manhattan, Community Board: 10**. Special Permit (ZR 73-50) to seek a waiver of rear yard requirements per ZR Section 33-292 to permit the construction of commercial building. C8-3 zoning district. C8-3 district.

32-12-A

110 Beach 220th Street, west side Beach 220th Street, 160' south of Breezy Point Boulevard., Block 16350, Lot(s) p/o400, Borough of **Queens, Community Board: 14**. The proposed reconstruction and enlargement of the existing single family dwelling not fronting a mapped street is contrary to Article 3, Section 36 of the General City Law. The proposed upgrade to the existing private disposal system located partially in the bed of the service road is contrary to Building Department policy. R4 district.

33-12-A

78-70 Winchester Boulevard, landlocked parcel located just south of Union Turnpike and west of 242nd Street., Block 7880, Lot(s) 550,500, Borough of **Queens, Community Board: 13**. Proposed construction of 2 mixed use buildings, 2 residential and one community facility that don't have frontage on a legally mapped street contrary to General City Law Section 36 . C8-1 /R3-2 Zoning Districts . C8-1 district.

34-12-A

78-10 Winchester Boulevard, premises is a landlocked parcel located just south of Union Turnpike and west of 242nd Street., Block 7880, Lot(s) 550,500, Borough of **Queens, Community Board: 13**. Proposed construction of 2 mixed use buildings, 2 residential and one community facility that don't have frontage on a legally mapped street contrary to General City Law Section 36 . C8-1 /R3-2 Zoning Districts . C8-1 district.

35-12-A

78-70 Winchester Boulevard, landlocked parcel located just south of Union Turnpike and west of 242nd Street., Block 7880, Lot(s) 550,500, Borough of **Queens, Community Board: 13**. Proposed construction of 2 mixed use buildings, 2 residential and one community facility that don't have frontage on a legally mapped street contrary to General City Law Section 36 . C8-1 /R3-2 Zoning Districts . C8-1 district.

36-12-A

78-70 Winchester Boulevard, landlocked parcel located just south of Union Turnpike and west of 242nd Street., Block 7880, Lot(s) 550, 500, Borough of **Queens, Community Board: 13**. Proposed construction of 2 mixed use buildings, 2 residential and one community facility that don't have frontage on a legally mapped street contrary to General City Law Section 36 . C8-1 /R3-2 Zoning Districts . C8-1 district.

37-12-A

78-70 Winchester Boulevard, landlocked parcel located just south of Union Turnpike and west of 242nd Street., Block 7880, Lot(s) 550,500, Borough of **Queens, Community Board: 13**. Proposed construction of 2 mixed use buildings, 2 residential and one community facility that don't have frontage on a legally mapped street contrary to General City Law Section 36 . C8-1 /R3-2 Zoning Districts . C8-1 district.

38-12-A

131 Aviston Street, 80' northwest corner of intersection of Aviston Street and Riga Street., Block 4683, Lot(s) 22, Borough of **Staten Island, Community Board: 3**. Proposed construction of a single family home that does not front on a legally mapped street contrary to General City Law Section 36 . R3-1 Zoning District . R3-1 district.

DOCKET

39-12-A

133 Aviston, 80' northwest corner of intersection of Aviston Street and Riga Street., Block 4683, Lot(s) 23, Borough of **Staten Island, Community Board: 3.** Proposed construction of a single family home that does not front on a legally mapped street contrary to General City Law Section 36 . R3-1 Zoning District . district.

40-12-BZ

2385 Richmond Avenue, Richmond Avenue and East Richmond Hill Road., Block 2402, Lot(s) 1, Borough of **Staten Island, Community Board: 2.** Application for special permit for new PCE of @ 10,000 SF C2-1 district.

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

CALENDAR

MARCH 6, 2012, 10:00 A.M.

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

SPECIAL ORDER CALENDAR

433-61-BZ

APPLICANT – Harold Weinberg, for Shin J. Yoo, owner.
SUBJECT – Application November 28, 2012 – Extension of Term (11-411) of a previously approved variance which permitted in a residence use area district the erection of a one story and mezzanine retail store building; Waiver of the rules. R7A zoning district.

PREMISES AFFECTED – 1702-12 East 16th Street, between Quentin Road and Avenue R. Block 6798, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

997-84-BZ

APPLICANT – Akerman Senterfitt, for 222 Union Associates, owner; Central Parking System of New York, Inc., lessee.

SUBJECT – Application February 6, 2012 – Extension of Time to obtain a Certificate of Occupancy for an existing six story public parking garage with an automobile rental establishment which expired on June 4, 2008. R6A zoning district.

PREMISES AFFECTED – 800 Union Street, southside of Union Street between 6th and 7th Avenues, Block 957, Lot 29, Borough of Brooklyn.

COMMUNITY BOARD #6BK

271-90-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for EPT Realty Corp., owner.

SUBJECT – Application October 11, 2011 – Pursuant to (ZR 11-411) an Extension of Term of a previously granted Variance (72-21) for the continued operation of a UG16 Automotive Repair shop with used car sales which expired on October 29, 2011. R7X/C2-3 zoning district.

PREMISES AFFECTED –68-01/5 Queens Boulevard, northeast corner of intersection of Queens Boulevard and 68th Street, Block 1348, Lot 53, Borough of Queens.

COMMUNITY BOARD #2Q

APPEALS CALENDAR

155-11-A

APPLICANT – Sheldon Lobel, P.C., for 10 Stratford Associates, owners.

SUBJECT – Application October 3, 2011 – Appeal seeking a common law vested right to continue construction commenced under the prior R6 zoning. R3X zoning district.
PREMISES AFFECTED – 480 Stratford Road, west side of Stratford Road, through to Coney Island Avenue between Dorchester and Ditmas Avenue, Block 5174, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #14BK

162-11-A

APPLICANT – Akerman Senterfitt, LLP, for 179 Ludlow Holding LLC, owners.

SUBJECT – Application October 17, 2011 – Appeal seeking a determination that the owner has acquired a common law vested right to continue construction commenced under prior C6- 1 zoning district regulations. C4-4A Zoning district.

PREMISES AFFECTED – 179 Ludlow Street, western side of Ludlow on a block bounded by Houston to the north and Stanton to the south, Block 412, Lot 26, Borough of Manhattan.

COMMUNITY BOARD #3M

MARCH 6, 2012, 1:30 P.M.

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

ZONING CALENDAR

195-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Harriet Mandalaoui and David Mandalaoui, owners.

SUBJECT – Application December 22, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (§23-141(b)); side yard (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 2070 East 21st Street, west side of East 21st Street, between Avenue S and Avenue T, Block 7299, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #15BK

CALENDAR

4-12-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 56th and Park (NY) Owner, LLC.

SUBJECT – Application January 11, 2012 – Special Permit (§73-36) to permit the operation of a physical culture establishment. C5-3/C5-2.5 (MID) zoning district.

PREMISES AFFECTED – 432-440 Park Avenue, northwest corner of Park Avenue and East 56th Street, Block 1292, Lot 33, 43, 45, 46, Borough of Manhattan.

COMMUNITY BOARD #5M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, FEBRUARY 14, 2012
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

141-66-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Rising Wolf Garage LLC, owner.

SUBJECT – Application June 29, 2011 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a UG 8 motor vehicle storage facility (*Rising Wolf Motorcycle Parking Garage*) which expired on July 1, 2010; Amendment to enclose open parking area; and Waiver of the Rules. R7-2 zoning district.

PREMISES AFFECTED – 338 East 9th Street, Block 450, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, an extension of term of a previously granted variance to permit the construction of a one-story building for use as a garage (Use Group 8), and an amendment to permit an enlargement of the previously approved building; and

WHEREAS, a public hearing was held on this application on January 24, 2012, after due notice by publication in *The City Record*, and then to decision on February 14, 2012; and

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

WHEREAS, Community Board 3, Manhattan, states that it takes no action regarding this application; and

WHEREAS, the subject site is located on the south side of East 9th Street between First Avenue and Second Avenue, within an R8B zoning district; and

WHEREAS, the site has 25 feet of frontage on East 9th Street and a total lot area of 2,125 sq. ft.; and

WHEREAS, the site is currently occupied by a one-story building operated as a garage for the parking of motorcycles, with a total floor area of 2,125 sq. ft. (1.0 FAR); and

WHEREAS, the Board has exercised jurisdiction over

the subject site since May 24, 1966 when, under the subject calendar number, the Board granted a variance under ZR § 72-21 to permit the construction of a one-story building for use as a garage (Use Group 8), with the sale of used cars (Use Group 16) and parking in the open area, for a term of ten years; and

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

WHEREAS, most recently, on October 31, 2000, the Board granted a ten-year extension of term, which expired on July 1, 2010; and

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

WHEREAS, the applicant states that the lot is now exclusively used for the parking of motorcycles (Use Group 8); and

WHEREAS, the applicant also requests an amendment to legalize an increase in floor area of the building from 1,075 sq. ft. (0.51 FAR) to 2,125 sq. ft. (1.0 FAR); and

WHEREAS, the applicant states that the floor area was increased by enclosing the front area of the site to provide a safer area for the storage of motorcycles; and

WHEREAS, specifically, the applicant represents that there had been incidents of vandalism in the open area at the front of the site, and that enclosing the open area has made the site safer, quieter, and cleaner, while resulting in no visual impact on nearby buildings; and

WHEREAS, the applicant notes that the previous grant allowed the front area of the site to be used for the parking and storage of motor vehicles, and therefore the enclosure of the front area does not increase the actual amount of space being used for parking on the site; and

WHEREAS, the Board notes that the proposed FAR of 1.0 is significantly less than the maximum permitted FAR in the subject R8B zoning district of 4.0; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on May 24, 1966, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from July 1, 2010, to expire on July 1, 2020, and to permit the noted modifications to the previous grant; *on condition* that all use and operations shall substantially conform to plans filed with this application marked Received ‘January 30, 2012’-(2) sheets; and *on further condition*:

THAT the term of this grant will expire on July 1, 2020;

THAT the above condition will be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect and will be listed on the certificate of occupancy;

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

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

MINUTES

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. 120720899)

Adopted by the Board of Standards and Appeals, February 14, 2012.

248-75-BZ

APPLICANT – Alfonso Duarte, P.E., for 444 East 86th Street Owners Corp., owner; Quick Park, lessee.

SUBJECT – Application August 8, 2011 – Extension of Term permitting the use of a maximum of 50 transient parking spaces within an accessory garage granted by the Board pursuant to §60 (3) of the Multiple Dwelling Law, which expired on October 14, 2010; Waiver of the Rules. R8B, R10 and C1-5 zoning districts.

PREMISES AFFECTED – 1621 York Avenue, aka 436 East 86th Street, west side of York Avenue, Block 1565, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term for a previously granted variance for a transient parking garage, which expired on October 14, 2010; and

WHEREAS, a public hearing was held on this application on December 13, 2011, after due notice by publication in *The City Record*, with a continued hearing on January 24, 2012, and then to decision on February 14, 2012; and

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

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

WHEREAS, the subject premises is an irregular-shaped lot with approximately 143 feet of frontage on the south side of East 86th Street and 50 feet of frontage on the west side of York Avenue, partially within an R10 zoning district, partially within an R10A zoning district, and partially within a C1-5 (R10A) zoning district; and

WHEREAS, the site is occupied by a 37-story residential building; and

WHEREAS, the cellar and a portion of the first floor are occupied by a 126-space accessory parking garage; and

WHEREAS, on October 14, 1975, under the subject

calendar number, the Board granted a variance pursuant to Section 60(3) of the Multiple Dwelling Law to permit a maximum of 50 surplus parking spaces on the first floor to be used for transient parking, for a term of 15 years; and

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

WHEREAS, most recently, on September 12, 2000, the Board granted a ten-year extension of term, which expired on October 14, 2010; and

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

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

WHEREAS, at hearing, the Board directed the applicant to clarify the signage and hours of operation of the site; and

WHEREAS, in response, the applicant submitted a revised plan and signage analysis reflecting that the signage complies with C1 district signage regulations except that the illuminated sign projects six inches beyond the maximum permitted projection across the street line; and

WHEREAS, the applicant states that the illuminated sign is the only sign that is visible to motorists travelling in either direction along York Avenue, since the garage entrance is otherwise hidden from motorists’ view; and

WHEREAS, the applicant states that the hours of operation for the garage are as follows: Monday through Wednesday, from 6:00 a.m. to 12:00 a.m.; Thursday and Friday, from 6:00 a.m. to 2:00 a.m.; and Saturday and Sunday, from 7:00 a.m. to 2:00 a.m.; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution having been adopted on October 14, 1975, so that, as amended, this portion of the resolution shall read: “to permit the extension of the term of the grant for an additional ten years from October 14, 2010, to expire on October 14, 2020; *on condition* that all use and operations shall substantially conform to plans filed with this application marked Received ‘August 8, 2011’- (2) sheets; and *on further condition*:

THAT this term will expire on October 14, 2020;

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

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

THAT all signage will be in accordance with the BSA-approved plans;

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

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

THAT this approval is limited to the relief granted by the

MINUTES

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

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

(DOB Application No. 102824650)

Adopted by the Board of Standards and Appeals, February 14, 2012.

8-10-BZ

APPLICANT – NYC Board of Standards and Appeals

Owner – Adel Kassim

SUBJECT – Application January 21, 2010 – Dismissal for Lack of Prosecution – Variance (§72-21) to allow the legalization and enlargement of an existing supermarket, contrary to use regulations (§22-00). R4 zoning district.

PREMISES AFFECTED – 58-14 Beach Channel Drive, northeast corner of the intersection of Beach 59th Street and Beach Channel Drive, Block 16004, Lot 96, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application dismissed.

THE VOTE TO DISMISS –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

Adopted by the Board of Standards and Appeals, February 14, 2012.

58-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Eckford II Realty Corp., owner; Quick Fitness, lessee.

SUBJECT – Application November 30, 2011 – Extension of Time to obtain a Certificate of Occupancy of a Special Permit (§73-36) for the operation of a Physical Culture Establishment (*Quick Fitness*) which expired on August 3, 2011. M1-2/R6A zoning district.

PREMISES AFFECTED – 16 Eckford Street, east side of Eckford Street, between Engert Avenue and Newton Street, Block 2714, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Richard Lobel and Joshua Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to obtain a certificate of occupancy, which expired on August 3, 2011; and

WHEREAS, a public hearing was held on this application on January 24, 2012, after due notice by publication in *The City Record*, and then to decision on February 14, 2012; and

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

WHEREAS, the site is located on the east side of Eckford Street, between Engert Avenue and Newton Street, in an M1-2/R6A zoning district within the MX-8 Special Mixed-Use District; and

WHEREAS, the site is a single zoning lot occupied by three buildings: (1) a three-story mixed-use industrial/commercial building located on the northwestern portion of the lot (22 Eckford Street); (2) a one-story industrial building located on the northeastern portion of the lot (20 Eckford Street); and (3) a one-story commercial building located on the southern portion of the lot (16 Eckford Street); and

WHEREAS, the PCE occupies a total floor area of 4,710 sq. ft. on the first floor of the building located at 16 Eckford Street; and

WHEREAS, the PCE is operated as Quick Fitness; and

WHEREAS, on August 3, 2010 when, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-36, to permit the operation of a PCE on a 4,710 sq. ft. portion of the first floor of the building located at 16 Eckford Street, for a term of ten years; and

WHEREAS, a condition of the grant was that a certificate of occupancy be obtained by August 3, 2011; and

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

WHEREAS, the applicant states that a certificate of occupancy was not obtained due to delays in obtaining approval and permits for the installation of the PCE’s sprinkler system; and

WHEREAS, the applicant further states that it has since obtained approval of the sprinkler system and a permit has been issued; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated August 3, 2010, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy, to expire on February 14, 2013; *on condition*:

THAT a certificate of occupancy shall be obtained by February 14, 2013;

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

MINUTES

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 320134662)

Adopted by the Board of Standards and Appeals, February 14, 2012.

764-56-BZ

APPLICANT – Alfonso Duarte, P.E., for Anthony Panvini, owner.

SUBJECT – Application December 2, 2011 – Extension of Term (§11-411) of a variance permitting the operation of an automotive service station (UG 16B) with accessory uses and the sale of used cars (UG 16B), which expires on October 22, 2012. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 200-05 Horace Harding Expressway, north side between Hollis Ct., Boulevard and 201st Street, Block 741, Lot 325,000.00, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD – Laid over to March 20, 2012, at 10 A.M., for continued hearing.

548-79-BZ

APPLICANT – Bryan Cave LLP, for 249 West 29 Owners Corp.

SUBJECT – Application December 2, 2011 – Amendment of a previously approved variance (§72-21) which permitted residential use (UG2) on floors 3 through 15. Application seeks to legalize residential use on the 2nd floor, contrary to use regulations §42-481. M1-6D zoning district.

PREMISES AFFECTED – 247-251 West 29th Street, north side of West 29th Street, 170’ east of 8th Avenue, Block 779, Lot 10, 12, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Margery Perlmutter.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

Absent: Commissioner Hinkson.....1

ACTION OF THE BOARD – Laid over to March 6, 2012, at 10 A.M., for decision, hearing closed.

187-10-BZ

APPLICANT – NYC Board of Standards and Appeals

OWNER – Ranjit S. Atwal

SUBJECT – Application October 5, 2010 – Dismissal for lack of Prosecution – Variance (§72-21) to permit the legalization of a three-family building, contrary to side yard regulations (§23-462(c)). R6B zoning district.

PREMISES AFFECTED – 40-29 72nd Street, between Roosevelt Avenue and 41st Avenue, Block 1304, Lot 16, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Khalid M. Azam

ACTION OF THE BOARD – Laid over to March 27, 2012, at 10 A.M., for dismissal calendar.

APPEALS CALENDAR

45-07-A

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

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

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

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to March 27, 2012, at 10 A.M., for continued hearing.

15-11-A

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

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

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

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Stuart Beckerman and Neil Weisbard.

For Opposition: Amanda Derr.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

Absent: Commissioner Hinkson.....1

ACTION OF THE BOARD – Laid over to March 27,

MINUTES

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

75-11-A

APPLICANT – Bryan Cave LLP, for Kimball Group, LLC, owner.

SUBJECT – Application August 17, 2011 – Appeal challenging Department of Building's determination that the permit for the subject premises expired and became invalid since permitted work was not commenced within 12 months from the date of issuance, per Title 28, §28-105.9 of the Administrative Code. R4 Zoning District.

PREMISES AFFECTED – 2230-2234 Kimball Street, between Avenue U and Avenue V, Block 8556, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Margery Perlmutter.

ACTION OF THE BOARD – Off calendar.

119-11-A

APPLICANT – Bryan Cave LLP, for Kimball Group, LLC, owner.

SUBJECT – Application August 17, 2011 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under prior zoning regulations in effect on July 14, 2005. R4 zoning district.

PREMISES AFFECTED – 2230-2234 Kimball Street, between Avenue U and Avenue V, Block 8556, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Margery Perlmutter.

For Opposition: Joan Byrnes.

For Administration: Lisa Errantia, Department of Buildings.

ACTION OF THE BOARD – Laid over to March 20, 2012, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, FEBRUARY 14, 2012
1:30 P.M.**

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

ZONING CALENDAR

231-10-BZ

CEQR #11-BSA-045K

APPLICANT – Eric Palatnik, PC, for WIEDC (Williamsburg Infant & Early Childhood Development Center), owners.

SUBJECT – Application December 17, 2010 – Variance (§72-21) to permit the development of a six-story school (*Williamsburg Infant and Early Childhood Development center*), contrary to use regulations (§42-11); floor area (§43-122), rear yard (§43-26), and wall height, total height, number of stories, setback, and sky exposure plane (§43-43). M1-1 zoning district.

PREMISES AFFECTED – 430-440 Park Avenue, Between Kent Avenue and Franklin Avenue. Block 1898, Tent. Lot 29, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated November 18, 2010, acting on Department of Buildings Application No. 320225626 reads, in pertinent part:

Proposed development is contrary to the following sections of the ZR and therefore requires approval from the NYC BSA:

FAR, ZR Section 43-122

Use Group, ZR Section 42-11

Wall Height, ZR Section 43-43

Total Height, ZR Section 43-43

Number of stories, ZR Section 43-43

Rear Yard, ZR Section 43-26

Setback, ZR Section 43-43

Sky Exposure Plane, ZR Section 43-43; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an M1-1 zoning district, the construction of a six-story Use Group 3 school, which does not conform to district use regulations or comply with relevant bulk regulations, contrary to ZR §§ 42-11, 43-122, 43-26, and 43-43; and

WHEREAS, a public hearing was held on this application on September 20, 2011, after due notice by publication in *The City Record*, with continued hearings on November 15, 2011 and December 13, 2011, and then to decision on February 14, 2012; and

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

WHEREAS, Community Board 3, Brooklyn, states that it takes no action regarding this application; and

WHEREAS, City Councilmember Stephen T. Levin recommends approval of this application; and

WHEREAS, State Assemblymember Joseph R. Lentol recommends approval of this application; and

WHEREAS, this application is brought on behalf of the Williamsburg Infant and Early Childhood Development Center, Inc. (“WIEDC”), a not-for-profit educational entity; and

WHEREAS, the subject site is located on the south side of Park Avenue, between Kent Avenue and Franklin Avenue, within an M1-1 zoning district; and

WHEREAS, the site has 120 feet of frontage on Park Avenue, a depth of approximately 89’-5”, and a total lot area of approximately 10,730 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a six-story and cellar school building on the site; and

WHEREAS, the proposed use is not permitted in the subject M1-1 zoning district and the proposed bulk exceeds the complying building envelope for a conforming use, thus the applicant seeks a variance for the proposed building; and

WHEREAS, the applicant originally proposed to construct a six-story building with a floor area of 48,621 sq. ft. (4.5 FAR), a wall height of 73’-0”, and a total height of 87’-6”; and

WHEREAS, at the direction of the Board, the applicant revised its proposal and provided interim proposals that maintained the floor area of 48,621 sq. ft. (4.5 FAR) and the wall height of 73’-0”, but reduced the total height to 85’-6” and then 82’-10”, before further revising the plans to reflect the current proposal; and

WHEREAS, the current proposal reflects the following non-compliances: a floor area of 48,621 sq. ft. (25,752 sq. ft. is the maximum permitted); an FAR of 4.5 (2.4 FAR is the maximum permitted); a wall height of 68’-4” (the maximum permitted wall height is 30’-0”); a total height of 80’-0” (as governed by the sky exposure plane); a setback of 15’-0” above the fifth floor (a minimum setback of 20’-0” is required above a height of 30’-0”); a rear yard with a depth of 15’-0” above the first floor (a rear yard with a minimum depth of 20’-0” is required); and encroachment into the sky exposure plane; and

WHEREAS, the proposal provides for the following uses: (1) a therapeutic pool, changing room, large occasion room, kitchen, building services, and storage at the cellar; (2) a drop off area, reception area, lobby, staff daycare room, therapy rooms, classrooms, and offices at the first floor; (3)

MINUTES

therapy rooms, classrooms, and offices at the second floor; (4) therapy rooms, classrooms, teacher's lounge, rabbi's office, and a children's pantry and bakery at the third floor; (5) therapy rooms, classrooms, a staff lounge, indoor and outdoor play areas, and offices at the fourth floor; (6) therapy rooms, classrooms, a staff lounge, and offices at the fifth floor; (7) service coordination suites, offices, and conference rooms at the sixth floor; and (8) a playground on the roof; and

WHEREAS, the applicant states that the following are the primary programmatic needs of WIEDC: (1) accommodating the current enrollment while allowing for future growth; (2) relieving overcrowded classroom conditions; (3) providing sufficient space for the special needs students and the associated staff and therapy equipment; and

WHEREAS, the applicant represents that the WIEDC has been located at its current facility at 22 Middleton Street since December 2004, and has expanded over that time from a small number of students to the current enrollment of 190 students; and

WHEREAS, the applicant states that the existing building is no longer adequate to accommodate WIEDC's current and projected enrollment; and

WHEREAS, the applicant states that the existing building contains approximately 18,000 sq. ft. of floor area, which is inadequate to provide the space necessary to meet the therapy and education requirements of the special needs students; and

WHEREAS, specifically, the applicant states that WIEDC services students that are at the most extreme end of the disabled spectrum, and providing adequate education and therapy for the students requires significantly more space than is needed for other children; and

WHEREAS, the applicant represents that of the current enrollment of 190 students, only 140 can be accommodated in the existing building, while the additional 50 students are educated off-site; and

WHEREAS, the applicant further represents that the therapy rooms in the existing building are too small to accommodate the specialized equipment needed or the methods used in the therapy sessions, and that many of the offices in the existing building are forced to double as therapy rooms; and

WHEREAS, the applicant states that the existing building lacks space for families of the children to come and meet with the therapists, social workers, and teachers, which is encouraged to occur many times per week, given the students' need for 24-hour attention; and

WHEREAS, the applicant further states that the existing building's recreation areas are also deficient, as the indoor play area lacks space for any therapeutic play equipment, and the outdoor play area is in a courtyard adjacent to residential units, and therefore does not provide sufficient privacy for the students; and

WHEREAS, the applicant states that there is currently a waiting list for the subject school, and WIEDC seeks to increase its enrollment to 272 students for the proposed facility; and

WHEREAS, the proposed building will allow WIEDC to accommodate its current enrollment as well as its

projected enrollment of approximately 272 students through the use of both formal classroom space and separate therapy space to accommodate the varying needs of the students; and

WHEREAS, the applicant states that there are a total of 20 proposed classrooms on floors two through five which are all substantially similar in size, ranging from 549 sq. ft. to 661 sq. ft. to accommodate six to 12 students in each room; and

WHEREAS, the applicant represents that there are six types of classrooms proposed which reflect the six core programs necessary to meet the specific needs of the students, and the standard per square foot measurement used in the classrooms is dependent upon the type of classroom: (1) Early Intervention Classrooms will be located at the first floor for children up to three years old, and will occupy a total of 1,013 sq. ft., at an average of 63 sq. ft. per child; (2) Individual Support Classrooms for children aged two through six will be located at the second and third floors and will occupy a total of 2,217 sq. ft., at an average of 93 sq. ft. per child; (3) Medium Functioning Classrooms for children aged two through six will be located at the second and third floors and will occupy a total of 2,356 sq. ft., at an average of 69 to 92 sq. ft. per child; (4) High Functioning Classrooms for children aged two through six will be located at the second and third floors and will occupy a total of 2,407 sq. ft., at an average of 65 sq. ft. to 67 sq. ft. per child; (5) Individual Support Classrooms for children aged six and above will be located at the fourth and fifth floors and will occupy a total of 2,471 sq. ft., at an average of 75 sq. ft. to 106 sq. ft. per child; and (6) Medium Functioning Classrooms for children aged six and over will be located at the fourth and fifth floors and will occupy a total of 2,386 sq. ft., at an average of 47 sq. ft. to 53 sq. ft. per child; and

WHEREAS, in addition to the classrooms, the applicant states that the first floor will include a speech room and a large therapy room that will accommodate ten students; and

WHEREAS, the applicant further states that there are therapy suites at the second and third floor which will accommodate 30 students, and consist of occupational therapy, speech therapy rooms, a therapist's office, and a sensory integration space all centered around a larger therapy room, which will allow for individual therapy as well as larger group therapy on an as needed basis and simultaneously; and

WHEREAS, the applicant states that there are also large therapy suites on the fourth and fifth floor which are designed exclusively for group therapy sessions; and

WHEREAS, the applicant further states that an 18'-0" by 30'-0" therapeutic pool will be located at the cellar to be utilized in therapy sessions and can accommodate five children at once, including wheelchairs, walkers, and water therapy equipment; and

WHEREAS, in addition to the proposed student enrollment, the applicant states that the programmatic operations of the school require more staff than that of a conventional school, resulting in even more spatial demands upon the proposed facility; and

WHEREAS, specifically, the applicant states that WIEDC has a programmatic need to provide a total of 55 teachers and paraprofessional support staff that comes on an as-needed basis to accommodate the proposed 272 students; and

MINUTES

WHEREAS, the applicant states that the above-mentioned uses are based on simultaneous student occupancy of all classrooms, therapy rooms, speech rooms, and the pool, and will accommodate the proposed 272 students; and

WHEREAS, the applicant states that the remaining spaces in the proposed building are non-simultaneous uses, including a gym, play areas, speech therapy areas, a day care room, computer rooms, and play grocery store and banking areas, none of which can be readily adapted back and forth to accommodate multiple uses; and

WHEREAS, the applicant represents that a further programmatic need of the school is to provide a first floor drop off area that is off-street and allows for a safe and protected area for student drop-off and pickup to occur, as it can take several minutes for the students to get in or out of a vehicle; and

WHEREAS, the applicant states that the remainder of the first floor includes a reception and waiting area, and a family lounge to address the need for close family involvement; and

WHEREAS, the applicant further states that outdoor play areas will be located at the roof and fourth floor, and these areas will be supervised and enclosed and allow for the difference in the type of play between the older or more functioning students and those that are younger or may require more specialized play; and

WHEREAS, the applicant represents that the requested floor area, height, setback, and rear yard waivers are necessary to accommodate the space needs associated with the projected student body; and

WHEREAS, the applicant represents that the proposed height waiver is necessary to accommodate certain therapeutic equipment on each floor, specifically the sensory integration swing platforms, which are integral aspects to the therapy process and require a floor-to-ceiling height of 10'-6" (not including additional space required for duct space above the ceiling) to provide the necessary clearance for the swing platforms; and

WHEREAS, the applicant further represents that the waivers for height, setback, and encroachment into the sky exposure plane are also necessary to provide uniform floor plates on the second through fifth floors, in order to provide sufficient space to accommodate the students, staff, and specialized therapy equipment required or the school; and

WHEREAS, the Board notes that the applicant could have applied for a special permit for the subject site pursuant to ZR § 73-19 which would authorize the proposed use in the subject M1-1 zoning district, but a variance would still be required to construct the proposed building due to the requested bulk waivers; and

WHEREAS, the applicant submitted evidence in support of its claim that it could satisfy the findings required for the special permit under ZR § 73-19, to allow for a school within an M1-1 zoning district; and

WHEREAS, however, the applicant notes that the special permit would allow for a maximum FAR of 2.4 for the proposed school, which is not sufficient to meet WIEDC's programmatic needs; and

WHEREAS, the applicant submitted plans based on what

would be permitted pursuant to the special permit, which reflect a four-story building with 25,748 sq. ft. of floor area (2.4 FAR), a wall height of 23'-6", a total height of 46'-6", a rear yard with a depth of 20'-0", and a front setback with a depth of 20'-0"; and

WHEREAS, the applicant states that the building permitted pursuant to the special permit would yield sufficient space for only 154 students, which is well below the proposed enrollment of 272 students, and does not even satisfy the current enrollment of 190 students; and

WHEREAS, the applicant submitted a comparison chart reflecting the services which would be lost if the school were constructed pursuant to the special permit, which includes classrooms, therapy rooms, speech rooms, service coordination suites, a food prep room, restroom facilities, offices, the indoor play area, one outdoor play area, a nurse's office, and a reception area, among other spaces; and

WHEREAS, accordingly, the applicant states that only the proposed variance building can accommodate WIEDC's projected enrollment and satisfy the programmatic needs and space requirements of the school's special needs students; and

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

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

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

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

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

WHEREAS, the applicant submitted a 400-ft. radius diagram reflecting that the surrounding area is characterized by a mix of residential, community facility, commercial, and manufacturing uses; and

WHEREAS, as noted above, the proposed use is permitted by special permit under ZR § 73-19, which the applicant states is an acknowledgement that the use itself can be compatible with surrounding uses in the M1-1 zoning district; and

WHEREAS, the applicant notes that the proposed use would also be permitted as-of-right in the MX4/M1-2/R6A zoning district which is located approximately one block to the

MINUTES

northeast of the site; and

WHEREAS, the applicant states that there are also residential uses located on the subject block, including immediately adjacent to the rear of the site, and to the east of the site on Lots 35, 38, and 39; and

WHEREAS, as to bulk, the applicant states that the proposed height of 80'-0" is contextual with the building located on Lot 39 of the subject block with a height of 60'-0", as well as several other five-story buildings in the surrounding area; and

WHEREAS, the applicant submitted a building height comparison study which reflects that the proposed height is comparable to several other buildings in the vicinity of the site; and

WHEREAS, the Board notes that the building is set back 15'-0" above the fifth floor along Park Avenue, which will reduce the visual impact of the building height when viewed from the street; and

WHEREAS, the applicant states that the size of the proposed building will not have a detrimental impact on surrounding uses, as the adjacent lot to the west is used to store moving vans and the proposed building will provide a 15'-0" rear yard setback above the first floor, which will provide a buffer between the proposed building and the adjacent building to the south, thereby providing access to natural light in the proposed classrooms and minimizing any impact of the proposed building on the adjacent building to the south; and

WHEREAS, the applicant represents that no adverse traffic impacts will result from the proposed legalization and enlargement, as the school will have an off-street pickup and drop-off area for school vans and private vehicles at the first floor of the building; and

WHEREAS, the applicant states that the school has a total of 12 vans which can accommodate 15 students each, and that four vans can park in the drop-off area at a given time; thus, 60 students can arrive in each shift; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no development in conformance with zoning would meet the programmatic needs of the school at the site; and

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

WHEREAS, as noted above, the applicant originally proposed to construct a six-story building with a wall height of 73'-0" and a total height of 87'-6"; and

WHEREAS, at the direction of the Board, the applicant revised its proposal and provided interim plans which maintained the wall height of 73'-0" but reduced the total height to 85'-6" and then to 82'-10", before further revising the proposal to reflect the current proposal with a wall height of 68'-4" and a total height of 80'-0"; and

WHEREAS, accordingly, the Board finds the requested

waivers to be the minimum necessary to meet the programmatic needs of the school and to construct a building that is compatible with the character of the neighborhood; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") 11BSA045K, dated February 7, 2012; and

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

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

WHEREAS, DEP reviewed and accepted the January 2012 Remedial Action Plan and Construction Health and Safety Plan; and

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

WHEREAS, DEP reviewed the applicant's stationary source and mobile source air quality screening analysis and determined that the proposed project is not anticipated to result in significant air quality impacts; and

WHEREAS, DEP reviewed the results of noise monitoring, which determined that a window-wall noise attenuation rating of 31 dBA (OITC) and an alternate means of ventilation be provided for the proposed building; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an M1-1 zoning district, the construction of a Use Group 3 school, which does not conform with applicable zoning use regulations or comply with relevant

MINUTES

bulk regulations, contrary to ZR §§ 42-11, 43-122, 43-43, and 43-26, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received February 13, 2012” – Three (3) sheets and “Received February 8, 2012” – Thirteen (13) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: six stories, a floor area of 48,621 sq. ft. (4.5 FAR); a wall height of 68’-4”; a total height of 80’-0”; a front setback of 15’-0” above the fifth floor; a rear yard with a depth of 15’-0” above the first floor; and encroachment into the sky exposure plane, as reflected on the BSA-approved plans;

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

THAT DOB shall not issue a Certificate of Occupancy until the applicant has provided documentation of DEP’s approval of the Remedial Closure Report; and

THAT the proposed project shall include a window/wall attenuation rating of 31 dBA (OITC), an alternate means of ventilation to maintain an interior noise level of 45 dBA, and a closed window condition; and

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 will be considered approved only for the portions related to the specific relief granted; and

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

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

Adopted by the Board of Standards and Appeals, February 14, 2012.

73-11-BZ

CEQR #11-BSA-101R

APPLICANT – Rampulla Associates Architects, for Tora Development, LLC, owners.

SUBJECT – Application May 26, 2011 – Variance (§72-21) to allow a three-story, 87-unit residential building, contrary to use regulations of (§32-11), height (§23-631) and parking (§25-23) regulations. C3A/SRD zoning district.

PREMISES AFFECTED – 70 Tennyson Drive, north side Tennyson Drive, between Nelson Avenue and Cleveland Avenue, Block 5212, Lot 70, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Philip Rampulla.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated November 10, 2011, acting on Department of Buildings Application No. 520060246, reads in pertinent part:

Proposed three (3) story eighty seven (87) unit residential building contrary to use regulations (Section ZR 32-11)

Height (Section ZR 23-631) and parking (Section ZR 25-23) in C3A zoning district is contrary to (Section 34-01); and

WHEREAS, this is an application under ZR § 72-21, to permit, in a C3A zoning district within the Special South Richmond Development District (“SSRDD”) in a Lower Density Growth Management Area (“LDGMA”), a three-story residential building (UG 2), with 87 dwelling units and 114 accessory parking spaces, which is contrary to ZR §§ 32-11 and 34-01; and

WHEREAS, a public hearing was held on this application on November 1, 2011, after due notice by publication in the *City Record*, with a continued hearing on December 6, 2011, and then to decision on January 24, 2012; and

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

WHEREAS, Community Board 2, Staten Island, recommended disapproval of the original iteration of this application, citing concerns with the size and bulk of the project as originally proposed, its effect on the surrounding neighborhood character, and that the site does not suffer from unique physical conditions; and

WHEREAS, City Council Member Vincent M. Ignizio recommended disapproval of the original iteration of this application; and

WHEREAS, Staten Island Borough President James P. Molinaro recommends approval of the current application, with the following conditions: (1) all portions of Tennyson Drive be developed to the full mapped width of the street, with sidewalks and planting strips provided; (2) public dedication areas should include all land within the mapped bed of Tennyson Drive; (3) a Declaration of Public Use be filed with the Builder’s Pavement Plan application, guaranteeing pedestrian and vehicle access to all portions of the public dedication areas at all times; and (4) the Department of Transportation (“DOT”) render an opinion regarding parking and lighting considerations proximate to existing intersections; and

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

WHEREAS, the subject premises is an irregular-shaped lot located on the north side of the mapped but unbuilt Tennyson Drive, between Nelson Avenue and Cleveland Avenue, in a C3A zoning district within the SSRDD and in a LDGMA; and

WHEREAS, the site is also located adjacent to the northwest of Seaside Wildlife Nature Park, which opened in 2009 and consists of 21 acres along the Great Kills Harbor

MINUTES

waterfront; and

WHEREAS, the site has approximately 468 feet of frontage along Nelson Avenue, 723 feet of frontage along the mapped but unbuilt Tennyson Drive, 101 feet of frontage along Cleveland Avenue, 456 feet of frontage along Fitzgerald Avenue, and 45 feet of frontage along Morris Place, with a total lot area of 177,791 sq. ft.; and

WHEREAS, the applicant notes that a 57,103 sq. ft. portion of the subject lot is located in the bed of an unbuilt portion of Tennyson Drive; as a result the buildable area for the subject lot is reduced to 120,681 sq. ft. because as-of-right development is limited to the area outside the bed of the mapped but unbuilt Tennyson Drive; and

WHEREAS, on September 28, 1999, under BSA Cal. No. 60-99-A, the Board granted an application for the site to permit construction of a two-story, 100 unit residential building and restaurant which complied with the underlying zoning requirements but required a waiver of General City Law § 35 for construction partially in the bed of a mapped street, Tennyson Drive; and

WHEREAS, on September 1, 2005, the Board issued a letter of substantial compliance permitting an amendment to the approval from a two-story building to a three-story building, with a reduction in the portion of the building being constructed in the bed of the mapped street; and

WHEREAS, the applicant notes that on July 27, 2005, the subject site was rezoned from a C3 zoning district (with an R3-2 residential equivalent) to a C3A zoning district (with an R3A residential equivalent), in which the previously-approved residential development is not permitted as-of-right; and

WHEREAS, the applicant states that the subject site remains vacant; and

WHEREAS, the applicant initially proposed a four-story, 100-unit residential building (UG 2) with accessory parking for 100 vehicles, a floor area of 114,777 sq. ft. (0.645 FAR), a street wall height of 48'-0", a total building height of 58'-0", and which would not have opened the portion of Tennyson Drive located within the subject zoning lot and connected it to the existing street grid; and

WHEREAS, during the hearing process, the building height, floor area and number of units were reduced and the number of parking spaces increased at the direction of the Board and in response to concerns raised by the Community Board, Borough President, City Council and members of the community; and

WHEREAS, the applicant also revised its proposal to build out the portion of Tennyson Drive located within the zoning lot to its full mapped width and connect it to the existing street grid; thus, the current proposal does not contemplate construction in the bed of the mapped street and therefore will comply with General City Law § 35; and

WHEREAS, the applicant now proposes a three-story, 87-unit residential building with accessory parking for 114 vehicles, a floor area of 106,311 sq. ft. (0.597 FAR), and a height of 38'-2"; and

WHEREAS, the applicant states that the owner proposes to limit the occupancy of the building to adults age 55 and over; and

WHEREAS, the applicant further states that the proposed building will comply with the Housing for Older Persons Act ("HOPA"), a federal program that allows for such older adult housing projects; and

WHEREAS, the applicant states that the subject C3A zoning district limits Use Group 2 residential development to detached single- and two-family homes; therefore a use variance is requested for the proposed building; and

WHEREAS, the applicant further states that, pursuant to ZR § 34-01, the subject C3A zoning district has an R3A residential equivalent such that R3A district bulk provisions govern the subject site, and the proposed building therefore has the following non-compliances: a height of 38'-2" (a maximum height of 35'-0" is permitted); and 114 accessory parking spaces (a minimum of 131 accessory parking spaces are required); and

WHEREAS, because the proposed building does not conform to the use provisions of the C3A zoning district and does not comply with the bulk provisions related to street wall height and required parking, the applicant requests a variance to permit the proposed building; and

WHEREAS, the applicant states that the following unique physical conditions create unnecessary hardship and practical difficulties in developing the site with a complying development: (1) the presence of a mapped but unbuilt street on the subject lot; (2) poor subsurface soil conditions; (3) the lack of sanitary sewers; and (4) the irregular shape of the lot; and

WHEREAS, as to the mapped but unbuilt street, the applicant states that 57,103 sq. ft. of the subject lot is located in the bed of the unbuilt Tennyson Drive; therefore, approximately 32 percent of the 177,791 sq. ft. lot is within the bed of Tennyson Drive and cannot be developed; and

WHEREAS, the applicant represents that, although the 57,103 sq. ft. of lot area located in the bed of Tennyson Drive cannot be built upon, the Department of Buildings ("DOB") allows the portion of a zoning lot located in a mapped but unbuilt street to be included as lot area, such that the permitted floor area is calculated based on the total lot area of 177,791 sq. ft.; and

WHEREAS, however, the applicant states that the required yards and setbacks must be taken outside of the mapped but unbuilt street, and therefore the location of the street inhibits the ability of the site to realize its full development potential; and

WHEREAS, specifically, the applicant states that an as-of-right residential development on the site is limited to 24 two-family, three-story detached homes, which is unable to utilize the floor area generated by the portion of the lot located within the bed of Tennyson Drive; and

WHEREAS, as to the uniqueness of this condition, the applicant submitted a 400-ft. radius diagram which reflects that the subject site is the only zoning lot in the surrounding area which contains a mapped but unbuilt street; and

WHEREAS, as to the subsurface conditions on the site, the applicant states that the site has poor underlying soil conditions and is located within three different flood zones, all of which preclude the use of conventional foundation systems;

MINUTES

and

WHEREAS, the applicant submitted an engineer's report which stated that, based on soil borings performed at the site, the existing soil strata comprises a layer of fill which varies in thickness from three feet to 16.5 feet, followed by a layer of inorganic clayey silts with thickness varying from three feet to nine feet, followed by a layer of organic clayey silts with a thickness of four feet, and finally a layer of sand to the depth of 47 feet; and

WHEREAS, the engineer's report further states that the site has a high water table, ranging from five feet to nine feet below grade; and

WHEREAS, the applicant states that the site is located within three flood zones: (1) Zone AE affects 70 percent of the proposed development area and represents a special flood hazard area that is subject to 100-year flood in any given year, and has a base flood elevation of 11 feet, which is five feet above the mean site elevation; (2) Zone X affects 29 percent of the proposed development area and represents a 0.2 percent annual chance of flood; and (3) Zone VE affects approximately one percent of the proposed development area, and represents a coastal flood zone with wave action hazard and has a base flood elevation of 12 feet; and

WHEREAS, the applicant states that, due to the location of the subject zoning lot within three flood zones, certain regulatory requirements apply to any development on the site, based on Federal Emergency Management Agency ("FEMA") site classifications; and

WHEREAS, specifically, the applicant states that 71 percent of the site is occupied by flood zones which require that foundations be designed, constructed, and anchored to prevent flotation, collapse and lateral movement, and which either prohibit or recommend against the use of structural fill or solid concrete foundations; and

WHEREAS, the applicant states that the FEMA regulations for the flood zones in which the site is located, in conjunction with the high water table and poor underlying soil conditions which have the potential for foundation settlement, make conventional foundation systems of reinforced concrete spread footings inappropriate; and

WHEREAS, specifically, the engineer's report states that the foundation system for any development on the site would consist of timber piles driven approximately 30 feet below grade; and

WHEREAS, the engineer's report further states that future sewer lines for both the as-of-right and proposed development would be supported on a timber pile system in order to eliminate potential sewer line damage risks due to soil erosion, soil settlement, flooding, and the high water table; and

WHEREAS, the applicant states that this approach would greatly increase the number of piles for the as-of-right development (consisting of 24 two-family three-story homes), due to the required network of mains and laterals, while the proposed condominium building would require significantly fewer piles since only one line would be used to connect the sewer main; and

WHEREAS, specifically, the applicant states that the as-of-right two-family residential development would require a

total of 696 piles at a cost of \$688,674, as compared to a total of 444 piles at a cost of \$444,486 for the proposed condominium building, a difference of \$244,188; and

WHEREAS, as to the uniqueness of these conditions, the applicant states that the majority of other zoning lots in the surrounding area do not suffer from these conditions, and DOB records indicate that semi-detached and attached houses located to the northwest of the site have acceptable soil conditions for conventional concrete foundations; and

WHEREAS, the applicant states that the lack of sanitary sewers at the subject site is another unique condition which makes as-of-right development of the site infeasible; and

WHEREAS, the applicant states that the subject site has frontage on Nelson Avenue, Cleveland Avenue, Fitzgerald Avenue, Morris Place, and Tennyson Drive, and that while there are interceptor sewers located in Nelson Avenue and Tennyson Drive, individual house sewers are not permitted to connect to an interceptor sewer; and

WHEREAS, the applicant further states that the only sanitary sewer available for connection is a ten-inch sanitary sewer located in Cleveland Avenue, and this condition necessitates the installation of a common internal sanitary sewer which increases the costs for any as-of-right residential development; and

WHEREAS, the applicant represents that the lack of sanitary sewers, which precludes individual house connections and forces the use of a common internal sanitary sewer, is a unique condition which is not shared by any other lot in the surrounding area; and

WHEREAS, as to the irregular shape of the site, the applicant states that the subject site has frontage on five separate streets yet is triangular in appearance; and

WHEREAS, the applicant further states that a large portion of the site's Tennyson Drive frontage is curved, which increases the irregularity of the lot; and

WHEREAS, the applicant represents that the irregular shape of the lot significantly impedes the development potential of the site; and

WHEREAS, specifically, the applicant states that despite the frontage on five separate streets, as-of-right development consisting of 24 two-family three-story homes would require the construction of a new private street, in order to provide access to certain homes located on the interior portion of the lot, which would further reduce the development potential of the site; and

WHEREAS, the applicant submitted as-of-right plans reflecting that the shallowness of the northeastern portion of the site further inhibits the as-of-right development potential of the site; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following scenarios: (1) an as-of-right development with 24 detached, two-family, three-story homes with built-in garage; and (2) the originally proposed four-story

MINUTES

100 unit condominium building with a floor area of 114,777 sq. ft. (0.645 FAR) and 100 accessory parking spaces; and

WHEREAS, the feasibility study concluded that the as-of-right development would not realize a reasonable return, but that the proposed development would realize a reasonable return; and

WHEREAS, during the course of the hearing process, the Board directed the applicant to revise the proposed scenario and analyze a lesser variance scenario which complied with all bulk regulations of the Zoning Resolution; and

WHEREAS, in response, the applicant submitted a revised feasibility study which analyzed the current three-story 87 unit condominium building with a floor area of 106,311 sq. ft. (0.597 FAR) and 114 accessory parking spaces, and provided a lesser variance scenario consisting of 36 non-conforming attached three-story single-family townhouses which complied with all bulk regulations of the R3A residential equivalent zoning district; and

WHEREAS, the revised feasibility study concluded that the lesser variance scenario would not realize a reasonable return but that the revised proposed scenario would realize a reasonable return; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that, because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

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

WHEREAS, the applicant initially provided a 400-foot radius diagram indicating that the surrounding area is characterized by a mix of residential and commercial development; and

WHEREAS, the radius diagram submitted by the applicant reflects that a 90-unit townhouse development is located directly southwest of the site across Nelson Avenue, the 60-unit three- and four-story age-restricted Port Regalle condominium building is located directly south of the site on the opposite side of Tennyson Drive, and a mix of townhouses and semi-detached homes are located to the northwest of the site; and

WHEREAS, the applicant states that the proposed height of 38'-2" exceeds the maximum permitted height of 35'-0" by only 3'-2", and that when measured from the final grade rather than the base plane, the height is only 35'-11"; and

WHEREAS, the applicant submitted a height study diagram reflecting that the height of the proposed building is less than that of the Port Regalle residential development located to the south of the site across Tennyson Drive, which has a maximum height of 42'-0"; and

WHEREAS, the applicant states that the Seaside Wildlife Nature Park is located immediately adjacent to the southeast of the site and the proposed building is setback 45 feet to 60 feet from the Fitzgerald Avenue frontage to the northwest of the

site, which will ensure that the bulk of the proposed building does not negatively impact the surrounding uses; and

WHEREAS, the applicant also submitted a street parking diagram which indicates that the portions of both Tennyson Drive and Nelson Avenue located within the subject site will be opened and improved to their full width; and

WHEREAS, the applicant states that a total of approximately 63 new on-street parking spaces will be created on both sides of Tennyson Drive, and approximately 18 new on-street parking spaces will be provided on the northeast side of Nelson Avenue; and

WHEREAS, the applicant further states that the 100 accessory off-street parking spaces proposed for the subject building, in combination with the approximately 81 new on-street parking spaces that will be created on Tennyson Drive and Nelson Avenue, provide sufficient parking for the project and ensure that the proposed building will not have a negative impact on parking in the surrounding neighborhood; and

WHEREAS, the applicant represents that opening Tennyson Drive to its full width and connecting it to the existing street grid will also improve traffic conditions in the surrounding area; and

WHEREAS, the applicant further represents that restricting the occupancy of the proposed building to persons aged 55 or older will minimize the traffic generated from the site because fewer residents of the proposed building will have automobiles than if the occupancy of the building was not age-restricted; and

WHEREAS, in response to the concerns raised by the Borough President, the applicant states that it has agreed to build out the portion of Tennyson Drive located within the subject zoning lot to the full mapped street width, provide sidewalks and planting strips along Tennyson Drive, include all land within the mapped bed of Tennyson Drive as public dedication areas, and file a Declaration of Public Use with the Office of the County Clerk under the Builder's Pavement Plan application to guarantee pedestrian and vehicle access to all portions of the public dedication areas at all times; and

WHEREAS, the applicant notes that in its letter recommending approval of the subject proposal, the Borough President stated that opening Tennyson Drive to its full mapped width will better serve the community's needs for a contiguous roadway, and the new roadway and attendant sidewalks will provide ample curbside parking spaces and pedestrian connections to the adjacent Seaside Wildlife Nature Park; and

WHEREAS, the applicant notes that the subject C3A zoning district contemplates certain types of residential use, and the proposed building complies with all bulk requirements of the R3A equivalent district, aside from height and parking; and

WHEREAS, based upon its review of submitted maps and photographs and its inspection, the Board agrees that the proposed building's use, height, bulk and design are compatible with that of other buildings in the neighborhood; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent

MINUTES

properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship was not created by the owner or a predecessor in title, but is due to the unique conditions of the subject site; and

WHEREAS, as noted above, the applicant initially proposed a four-story 100-unit building with a floor area of 114,777 sq. ft. (0.645 FAR), a street wall height of 48'-0", a total height of 58'-0", and 100 accessory parking spaces; and

WHEREAS, in response to concerns raised by the Borough President, City Council, and members of the community, and at the request of the Board, the applicant revised its proposal during the hearing process by reducing the number of stories from four to three, reducing the height of the building to 38'-2", reducing the number of units from 100 to 87, reducing the floor area from 114,777 sq. ft. (0.645 FAR) to 106,311 sq. ft. (0.597 FAR), increasing the number of parking spaces from 100 to 114, and agreeing to open Tennyson Drive and provide an additional 81 on-street parking spaces along Tennyson Drive and Nelson Avenue; and

WHEREAS, the applicant asserts, and the Board agrees, that the waiver associated with the proposed building represents the minimum variance; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 11BSA101R, dated February 13, 2012; and

WHEREAS, the New York State Department of Environmental Conservation ("DEC") is reviewing an application for a tidal wetland adjacent area permit for the proposed development; and

WHEREAS, as a condition of approving the permit, DEC may require measures including but not limited to pervious sidewalks and parking areas, planting of native trees and shrubs, and storm water management with hydrodynamic separators; and

WHEREAS, the New York City Landmarks Preservation Commission ("LPC") reviewed the project for potential archaeological impacts and requested that an archaeological documentary study (Phase IA) be submitted for review and approval; and

WHEREAS, a Restrictive Declaration for an archaeological study was executed on January 18, 2012 and filed for recording on January 19, 2012; and

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

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

environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, in a C3A zoning district within the Special South Richmond Development District ("SSRDD") in a Lower Density Growth Management Area ("LDGMA"), a three-story residential building (UG 2), with 87 dwelling units and 114 accessory parking spaces, which is contrary to ZR §§ 32-11 and 34-01, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 10, 2012" – Nine (9) sheets; and *on further condition*:

THAT the following shall be the parameters of the proposed building: three stories; 87 units; a floor area of 106,311 sq. ft. (0.597 FAR); a height of 38'-2"; and accessory parking for 114 vehicles, as illustrated on the BSA-approved plans;

THAT the occupancy of the building shall be limited to persons 55 years of age or older, in accordance with applicable provisions of the Housing for Older Persons Act requirements;

THAT all other Housing for Older Persons Act requirements shall be complied with for the life of the proposed building;

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

THAT a Builder's Pavement Plan shall be filed and approved by DOT prior to the issuance of a building permit;

THAT a Declaration of Public Use guaranteeing pedestrian and vehicle access to all portions of the mapped bed of Tennyson Drive shall be filed with the Office of the County Clerk under the Builder's Pavement Plan;

THAT administrative certifications shall be obtained from the City Planning Commission as required by ZR §§107-64 (removal of trees), 107-65 (modification of topography) and 107-23 (school seats) prior to the issuance of a building permit;

THAT a permit shall not be issued for any grading, excavation, foundation or other permit which involves soil disturbance until the DEC has issued a tidal wetland adjacent area permit;

THAT a permit shall not be issued for any grading, excavation, foundation or other permit which involves soil disturbance until, pursuant to the Restrictive Declaration, the LPC has issued to DOB, as applicable, either a Notice of No Objection, Notice to Proceed, Notice of Satisfaction, or Final Notice of Satisfaction;

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

THAT construction shall be substantially completed in accordance with the requirements of ZR § 72-23;

THAT this approval is limited to the relief granted by

MINUTES

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.

Adopted by the Board of Standards and Appeals, February 14, 2012.

115-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Thomas Schick, owner.

SUBJECT – Application August 15, 2011 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 1110 East 22nd Street, between Avenue J and Avenue K, Block 7603, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 14, 2011, acting on Department of Buildings Application No. 320311998, reads in pertinent part:

Proposed floor area is contrary to ZR 23-141.

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

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

Proposed rear yard is contrary to ZR 23-47; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement and partial legalization of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on November 1, 2011, after due notice by publication in *The City Record*, with continued hearings on December 6, 2011 and January 24, 2012 and then to decision on February 14, 2012; and

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

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

WHEREAS, the subject site is located on the west side of East 22nd Street, between Avenue K and Avenue J, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft., and is occupied by a single-family home with a floor area of 3,855 sq. ft. (0.77 FAR); and

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

WHEREAS, the applicant states that while the portion of the home that protrudes into the rear yard appears to be part of the original building, it is requesting a legalization for that portion of the home because the outline of the existing home does not match the historical Sanborn Maps; and

WHEREAS, the applicant seeks an increase in the floor area from 3,855 sq. ft. (0.77 FAR) to 3,974 sq. ft. (0.80 FAR); the maximum permitted floor area is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 77 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain the existing side yard along the northern lot line with a width of 3'-3½" and to maintain the existing side yard along the southern lot line with a width of 8'-5" (two side yards with minimum widths of 5'-0" and a combined width of 13'-0" are required); and

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

WHEREAS, at hearing, the Board directed the applicant to clarify which portions of the home are being legalized and to identify those portions as new construction; and

WHEREAS, in response, the applicant submitted revised plans identifying that only the portion of the home which is not shown on the historical Sanborn Maps (consisting of the existing protrusion into the rear yard) is being legalized; and

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

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

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

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

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

MINUTES

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement and partial legalization of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received January 31, 2012"-(12) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 3,974 sq. ft. (0.80 FAR); a minimum open space ratio of 77 percent; a side yard with a minimum width of 3'-3½" along the northern lot line; a side yard with a minimum width of 8'-5" along the southern lot line; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, February 14, 2012.

121-11-BZ

CEQR #12-BSA-014M

APPLICANT – The Law Office of Fredrick A. Becker, for Convent Avenue Baptist Church, owners.

SUBJECT – Application August 22, 2011 – Variance to legalize a two story and basement rear yard enlargement to a church (*Convent Avenue Baptist Church*), contrary to permitted rear yard regulations (§24-33), and lot coverage (§24-11). R7-2 zoning district.

PREMISES AFFECTED – 351 Convent Avenue, aka 420 West 145th Street and 418 West 145th Street, southeast corner of Convent Avenue and West 145th Street, Block 2050, Lot 42 & 47, Borough of Manhattan.

COMMUNITY BOARD #9M

APPEARANCES –

For Applicant: Fredrick A. Becker and William Nance.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated August 18, 2011, acting on Department of Buildings Application No. 120649735, reads:

1. Proposed lot coverage exceeds the permitted by section. (ZR 24-11, ZR 24-17)
2. Proposed two-story portion exceeding 23'-0" in height on lot portion beyond 100'-0" of corner that coincides with a rear lot line of an adjoining zoning lot violated 30'-0" rear yard requirement of ZR 24-361 and is not permitted obstruction pursuant to ZR 24-33; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21, to permit, on a site within an R7-2 zoning district within the Hamilton Heights/Sugar Hill Historic District, the legalization of an enlargement to a church building (Use Group 4), which does not comply with lot coverage and rear yard regulations, contrary to ZR §§ 24-11, 24-17, 24-33, and 24-361; and

WHEREAS, a public hearing was held on this application on December 13, 2011, after due notice by publication in *The City Record*, with a continued hearing on January 14, 2012, and then to decision on February 14, 2012; and

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

WHEREAS, Community Board 9, Manhattan, recommends approval of the application; and

WHEREAS, certain members of the community provided testimony in opposition to the proposal, citing concerns about there being excessive noise associated with the musical program during certain periods; and

WHEREAS, this application is brought on behalf of the Convent Avenue Baptist Church, a non-profit religious entity (the "Congregation"); and

WHEREAS, the subject site is located on the southwest corner of Convent Avenue and West 145th Street, within an R7-2 zoning district within the Hamilton Heights/Sugar Hill Historic District; and

WHEREAS, the site has 99'-11" of frontage on Convent Avenue, 133'-6" of frontage on West 145th Street, and a total lot area of approximately 13,338 sq. ft.; and

WHEREAS, the site is currently occupied by a historic church and an adjacent former townhouse used in conjunction with the church; Tax Lot 42 is occupied by the church and Tax Lot 47 is occupied by the townhouse; together, the buildings have a floor area of 20,617 sq. ft.

WHEREAS, the Congregation has occupied the site since 1942; first it occupied the historic church building (Lot 42) and then it acquired the adjacent townhouse (Lot 47); and

WHEREAS, the applicant states that in the early 1970s, the Congregation acquired a third building (at Convent Avenue

MINUTES

and West 144th Street) to accommodate its education program (the "Education Building"); it is on a separate zoning lot and is not part of the subject application; and

WHEREAS, the Education Building, however, allowed for the ADA accessibility to the sanctuary with the construction of a connection between the Education Building and the sanctuary; prior to that time, the sanctuary was not ADA accessible as it is located many steps above the sidewalk with a grand entrance on Convent Avenue at the second story level as viewed from West 145th Street which has a significant slope in an easterly direction from Convent Avenue; and

WHEREAS, the applicant states that it built a connection between the Education Building and the sanctuary building to provide accessibility to the sanctuary building to all congregants; and

WHEREAS, the applicant states that if the enlargement had a maximum height of 23 feet and were one story, it would be a permitted obstruction and not result in lot coverage or rear yard non-compliance; and

WHEREAS, however, the enlargement, completed in the mid-1980s, was built to two stories and a height of 26'-10" and, therefore violates lot coverage and rear yard regulations; and

WHEREAS, the applicant now seeks to legalize the non-complying rear enlargement; and

WHEREAS, the applicant notes that the Congregation also proposes to construct a separate 1,921 sq. ft. elevator and stair addition to the south of the church building along Convent Avenue, which will provide preferable ADA access to the sanctuary; and

WHEREAS, the applicant states that the proposed elevator and stair addition is permitted as-of-right, and the subject application is only necessary to legalize the existing non-complying rear enlargement; and

WHEREAS, the applicant states that the second story of the enlargement, which exceeds the area which would allow it to be a permitted obstruction, is occupied by the prayer room/multi-function room, which is needed to accommodate the Congregation's programmatic needs; and

WHEREAS, specifically, the applicant states that the following are the primary programmatic needs of the Congregation which necessitate the requested variance: (1) to have a small space for prayer, choir practice, or Bible study so that it could be accommodated somewhere other than the sanctuary or the basement, which are not intended for everyday activities and are not conducive to small groups or limited activities and (2) to build the prayer room/multi-function room in the same footprint as the first floor of the rear enlargement which is occupied by two deacon's rooms; and

WHEREAS, the applicant states that activities such as prayer groups, choir practice and Bible study are all uses which are traditionally found in connection with a religious facility, and the Congregation has a programmatic need to provide space for such activities; and

WHEREAS, the applicant represents that the Congregation's programmatic needs could not have been accommodated elsewhere in the existing buildings and that the rear enlargement provides the necessary deacon's rooms, and

prayer room/multi-function room, while also serving as a connection between the Education Building and the sanctuary building; and

WHEREAS, the applicant states that there is no other viable location for the prayer room/multi-function room in the church buildings, as aside from the sanctuary and the kitchen and dining space in the basement, the only other rooms consist of an administrative office, the Pastor's office, and the Pastor's conference room, none of which can accommodate prayer groups, choir practice, Bible study, and the other activities that take place in the prayer room/multi-function room; and

WHEREAS, the applicant further states that the sanctuary has a specific use and is not intended for every day activity, and therefore is also incompatible for the services that take place in the prayer room/multi-function room; and

WHEREAS, the applicant states that the Congregation also had a programmatic need to connect the Education Building to the sanctuary, so as to provide access to the sanctuary for the entire Congregation, and to provide space for the deacon's rooms, which was accomplished through the construction of the basement and first-story portion of the subject addition which houses the two deacon's rooms and provides a connection between the Education Building and the sanctuary; and

WHEREAS, the applicant represents that, although the basement and first story of the subject addition would have been permitted as-of-right, construction of the second floor satisfied the Congregation's additional programmatic need of providing the prayer room/multi-function room space as efficiently as possible, by constructing it simultaneously with and on the same footprint as the two deacon's rooms; and

WHEREAS, the applicant states that the requested waivers enable the Congregation to legalize the rear yard addition and maintain the religious uses accommodated on the second floor; and

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

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

WHEREAS, the Board notes that the applicant provided evidence of the Congregation's status as a non-profit religious institution; and

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

MINUTES

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

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

WHEREAS, the applicant submitted a 400-ft. radius diagram reflecting that the surrounding area is characterized by a mix of residential and community facility uses; and

WHEREAS, the applicant states that that the proposed/existing use and floor area are permitted as-of-right in the subject zoning district and only the lot coverage and rear yard encroachment generated by the rear enlargement are contrary to zoning district regulations; and

WHEREAS, as noted above, the applicant states that if the enlargement had a maximum height of 23 feet and were one story, it would be a permitted obstruction and not result in lot coverage non-compliance; and

WHEREAS, however, because the enlargement was built to two stories and a height of 26'-10", it violates lot coverage and rear yard regulations; and

WHEREAS, the radius diagram submitted by the applicant reflects that the subject block is predominated by buildings that are four stories or greater, and therefore the 26'-10" height of the subject rear enlargement is lower than that of all of the surrounding buildings; and

WHEREAS, the applicant states that the rear enlargement is separated from adjacent buildings due to its location at the rear of the church building and in between the church building and the Education Building; and

WHEREAS, the applicant notes that the subject rear enlargement has been in existence at the site for approximately three decades; and

WHEREAS, the Board notes that the subject enlargement is currently only minimally visible from the Convent Avenue frontage, and after construction of the zoning compliant elevator and stair addition the rear enlargement will not be visible from any street; and

WHEREAS, at hearing, the Board directed the applicant to respond to the community members concerns regarding excessive noise from the Congregation's music program; and

WHEREAS, in response, the applicant states that it had discussions with the affected community members and has agreed to keep all windows in the second floor prayer room/multi-function room closed during choir practice; and

WHEREAS, the applicant also submitted a letter from a consultant stating that it conducted noise monitoring at the site while choir practice was ongoing, which concluded that with a closed-window condition during choir practice and with choir practice ending by 10:00 p.m., there would be no adverse effect and the noise would not exceed City noise guidelines in the surrounding residences; and

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

WHEREAS, the applicant submitted a Certificate of No Effect from the Landmarks Preservation Commission ("LPC") approving work associated with the rear enlargement at the time of its construction, dated March 2, 1989; and

WHEREAS, the applicant also submitted a Certificate of Appropriateness from LPC approving work associated with the proposed elevator and stair addition, dated December 15, 2011; and

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

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

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

WHEREAS, the Board notes that the building complies with all bulk and use regulations, with the exception of the height and lot coverage of the rear enlargement; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Congregation the relief needed both to meet its programmatic needs and to occupy a building that is compatible with the character of the neighborhood; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.12 (a) and 617.5; 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) 12BSA014M, dated February 9, 2012; 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 Type I Negative Declaration determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review

MINUTES

and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R7-2 zoning district within the Hamilton Heights/Sugar Hill Historic District, the legalization of an enlargement to a church building (Use Group 4), which does not comply with lot coverage and rear yard regulations, contrary to ZR §§ 24-11, 24-17, 24-33, and 24-361, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received January 20, 2012”–Eight (8) sheets and “Received February 13, 2012”–One (1) sheet; and *on further condition*:

THAT the rear enlargement which connects the sanctuary and the Education Building will be limited to two stories and a maximum height of 26’-10”, as reflected on the approved plans;

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

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

THAT the windows in the second floor prayer room/multi-function room must remain closed at all times during choir practice and other musical activities;

THAT there will be no choir practice or other musical activities after 10:00 p.m.;

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

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

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

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

Adopted by the Board of Standards and Appeals, February 14, 2012.

31-10-BZ

APPLICANT – Eric Palatnik, P.C., for 85-15 Queens Realty, LLC, owner.

SUBJECT – Application March 16, 2010 – Variance (§72-21) to allow for a commercial building, contrary to use (§22-00), lot coverage (§23-141), front yard (§23-45), side yard (§23-464), rear yard (§33-283), height (§23-631) and location of uses within a building (§32-431) regulations. C1-2/R6, C2-3/R6, C1-2/R7A, R5 zoning districts.

PREMISES AFFECTED – 85-15 Queens Boulevard, aka 51-35 Reeder Street, north side of Queens Boulevard, between Broadway and Reeder Street, Block 1549, Lot 28, 41, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to March 20,

2012, at 1:30 P.M., for deferred decision.

87-11-BZ

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

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

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

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: David B

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

ACTION OF THE BOARD – Laid over to March 6, 2012, at 1:30 P.M., for decision, hearing closed.

96-11-BZ

APPLICANT – Law Office of Marvin B. Mitzner, for 514-516 East 6th Street, owners.

SUBJECT – Application June 30, 2011 – Variance (§72-21) to legalize enlargements to an existing residential building, contrary to floor area (§23-145) and dwelling units (§23-22). R7B zoning district.

PREMISES AFFECTED – 514-516 East 6th Street, south side of east 6th Street, between Avenue A and Avenue B, Block 401, Lot 17, 18, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to March 27, 2012, at 1:30 P.M., for continued hearing.

120-11-BZ

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

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

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

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Vivien R. Krieger.

ACTION OF THE BOARD – Laid over to February 28, 2012, at 1:30 P.M., for adjourned hearing.

MINUTES

130-11-BZ

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

SUBJECT – Application September 2, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 3600 Bedford Avenue, between Avenue N and Avenue O, Block 7678, Lot 90, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

ACTION OF THE BOARD – Laid over to March 6, 2012, at 1:30 P.M., for decision, hearing closed.

159-11-BZ

APPLICANT – Eric Palatnik, P.C., for Cord Meyer Development, LLC, owner; JWSTKD II, lessee.

SUBJECT – Application October 21, 2011 – Special Permit (§73-36) to permit the legalization of an existing Physical Culture Establishment (*Hi Performance Tai Kwon Do*). C4-1 zoning district.

PREMISES AFFECTED – 212-01 26th Avenue, 26th Avenue between Bell Boulevard and Corporal Kennedy Street, Block 5900, Lot 2, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

ACTION OF THE BOARD – Laid over to March 6, 2012, at 1:30 P.M., for decision, hearing closed.

176-11-BZ

APPLICANT – Eric Palatnik, P.C., for Alla Lubimor, owner.

SUBJECT – Application November 14, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to lot coverage and floor area (§23-141(b)); side yards (§23-461(a)) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 150 Norfolk Street, between Oriental and Shore Boulevard, Block 8756, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to March 20, 2012, at 1:30 P.M., for continued hearing.

179-11-BZ

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

SUBJECT – Application November 30, 2011 – Special Permit (§73-36) to permit a physical culture establishment (*New Retro Fitness*). M1-1 zoning district.

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

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Jennifer Dickson and Daniel Henkel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

ACTION OF THE BOARD – Laid over to March 6, 2012, at 1:30 P.M., for decision, hearing closed.

184-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Esther Snyder and Robert Snyder, owner.

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

PREMISES AFFECTED – 945 East 23rd Street, east side of East 23rd Street between Avenue T and J, Block 7587, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

Absent: Commissioner Hinkson.....1

ACTION OF THE BOARD – Laid over to March 6, 2012, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

*CORRECTION

This resolution adopted on November 17, 2009, under Calendar No. 395-60-BZ and printed in Volume 94, Bulletin No. 46, is hereby corrected to read as follows:

395-60-BZ

APPLICANT – Sheldon Lobel, P.C., for Ali A. Swati, owner.

SUBJECT – Application December 22, 2006 – Extension of Term (§11-411, §11-413) for change of use from a gasoline service station (UG16) to automotive repair establishment (UG16), which expired on December 9, 2005; Amendment to reduce the size of the subject lot and to request a UG6 designation for the convenience store; and an Extension of Time to obtain a certificate of occupancy which expired on January 19, 2000. R5 zoning district.

PREMISES AFFECTED – 2557-2577 Linden Boulevard, north side of Linden Boulevard between Euclid Avenue and Pine Street, Block 4461, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure; an extension of term, which expired on December 9, 2005; an extension of time to obtain a certificate of occupancy, which expired on January 19, 2000; an amendment to allow for the subdivision of the lot; and an amendment to allow changes in use within Use Group 16 and from Use Group 16 to Use Group 6 on a portion of the site; and

WHEREAS, a public hearing was held on this application on November 25, 2008 after due notice by publication in *The City Record*, with continued hearings on January 13, 2009, February 10, 2009, April 21, 2009, June 23, 2009, August 11, 2009, and September 22, 2009, and then to decision on November 17, 2009; and

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

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

WHEREAS, the site is located on the northwest corner of Linden Boulevard and Euclid Avenue, within an R5 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 1, 1960, when, under the subject calendar number, the Board granted a variance to permit the construction of a gasoline service station with

accessory uses for a term of 15 years; and

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

WHEREAS, the grant was most recently extended on January 19, 1999 for a term of ten years from the expiration of the prior grant, to expire on December 9, 2005; the grant also allowed for the legalization of an enlargement of the accessory building for use as a convenience store; and

WHEREAS, the applicant represents that an extension of term and a certificate of occupancy were not obtained in a timely manner due to administrative oversight; and

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

WHEREAS, the applicant seeks an amendment to (1) subdivide the lot, (2) permit a change in use from a gasoline service station (Use Group 16) to automotive repair establishment (Use Group 16) and (3) permit a change in use from accessory Use Group 16 to Use Group 6 for the existing convenience store; and

WHEREAS, with regard to the subdivision of the lot, the applicant submitted (1) site plans, which reflect the proposed configuration of the subject site and the adjacent lots; and (2) proof of ownership of the lots; and

WHEREAS, based on its review of the lot configuration, use of the site, and visual inspection of the site, the Board does not find that such a change, which would result in a substandard, irregularly-shaped lot is appropriate; and

WHEREAS, at hearing, the Board stated that it would not consider any of the proposed amendments or requested extensions until the applicant had demonstrated good faith efforts to remedy the poor site conditions; and

WHEREAS, specifically, the Board directed the applicant to improve the conditions of the site, including (1) remove the portion of the one-story frame enlargement to the existing building, which is not reflected on the BSA-approved plans; (2) improve site conditions, which includes the removal of graffiti, any signs not approved by the Board, and debris; (3) repair and install new fencing; and (4) re-pave the parking lot; and

WHEREAS, in response, the applicant submitted (1) evidence that the property owner has engaged an architect and applied for permits to demolish the existing enlargement to the building, which is contrary to the prior Board approvals; (2) photographs of the site, which reflect the removal of graffiti, the non-complying billboard, and debris; and (3) photographs of improved fence conditions; and

WHEREAS, the applicant also submitted a letter from the project architect stating that the removal of the one-story frame enlargement to the western side of the building would not compromise the structure of the remaining building; and

WHEREAS, the applicant proposes to re-pave the parking lot; and

WHEREAS, the Board accepts the submitted evidence as verification that the applicant is pursuing the required site improvements in good faith; and

MINUTES

WHEREAS, with regard to the proposed change in use from a gasoline station to an automotive repair establishment, the Board has determined that the change in use from one Use Group 16 use to another Use Group 16 use is appropriate; and

WHEREAS, the Board notes that the applicant must comply with all Department of Environmental Protection requirements associated with the termination of the gasoline service station use at the site; and

WHEREAS, with regard to the applicant's request to change the designation of the existing convenience store from an accessory Use Group 16 use to a Use Group 6 use, the Board has determined that this is appropriate; and

WHEREAS, pursuant to ZR § 11-413, the Board may grant a request for a change in use from one non-conforming use to another non-conforming use which would be permitted under ZR § 52-31; and

WHEREAS, based upon the above, the Board denies the applicant's request to subdivide the lot, but finds that the other requested amendments are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated November 1, 1960, so that as amended this portion of the resolution shall read: "to extend the term for ten years from December 9, 2005, to expire on December 9, 2015; to grant an extension of time to obtain a certificate of occupancy to May 17, 2010, and to permit the noted use changes and site modifications; *on condition* that the use and operation shall substantially conform to the previously approved drawings; and *on further condition*:

THAT the term of the grant shall expire on December 9, 2015;

THAT a certificate of occupancy shall be obtained by May 17, 2010;

THAT Department of Environmental Protection approval shall be obtained for any work associated with the termination of the gasoline service station use at the site;

THAT the site shall be maintained free of debris;

THAT all graffiti shall be removed within 48 hours;

THAT all signage shall comply with C1 zoning district sign regulations;

THAT all fencing shall be maintained in good condition;

THAT the parking lot shall be paved and maintained in good condition;

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

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

(DOB Application No. 302265536)

Adopted by the Board of Standards and Appeals, November 17, 2009.

"302265536". Corrected in Bulletin No. 8, Vol. 97, dated February 22, 2012.

***The resolution has been revised to correct the DOB Application No. which read: "320008120" now reads:**

MINUTES

*CORRECTION

This resolution adopted on November 9, 2010, under Calendar No. 395-60-BZ and printed in Volume 95, Bulletin Nos. 45-46, is hereby corrected to read as follows:

395-60-BZ

APPLICANT – Sheldon Lobel, P.C., for Ali A. Swati, owner.

SUBJECT – Application June 17, 2010 – Extension of Time to obtain a Certificate of Occupancy for a previously granted Automotive Repair Shop and Convenience Store use which expired on May 17, 2010. R-5 zoning district.

PREMISES AFFECTED – 2557-2577 Linden Boulevard, north side of Linden Boulevard, between Euclid Avenue and Pine Street, Block 4461, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Carly Bradley.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy, which expired on May 17, 2010; and

WHEREAS, a public hearing was held on this application on July 27, 2010 after due notice by publication in *The City Record*, with continued hearings on August 24, 2010, September 14, 2010, and October 26, 2010, and then to decision on November 9, 2010; and

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

WHEREAS, the subject site is located on the northwest corner of Linden Boulevard and Euclid Avenue, within an R5 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 1, 1960 when, under the subject calendar number, the Board granted a variance to permit the construction of a gasoline service station with accessory uses, for a term of 15 years; and

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

WHEREAS, on January 19, 1999, the Board granted an extension of term and an amendment to allow for the legalization of an enlargement of the accessory building for use as a convenience store; and

WHEREAS, most recently, on November 17, 2009, the Board granted an extension of term, to expire December 9, 2015, an extension of time to obtain a certificate of occupancy, which expired on May 17, 2010, and an

amendment to allow the change in use of portions of the site from Use Group 16 to Use Group 6; and

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

WHEREAS, the applicant states that a new certificate of occupancy was not obtained within the allotted time period because the Department of Environmental Conservation (“DEC”) required the applicant to conduct soil testing at the site, which showed that the soil and groundwater are contaminated and must be remediated; and

WHEREAS, the applicant states that DEC has directed the owner to excavate the existing blacktop to remove the contaminated soil and install observation wells to monitor ground water contamination, which must be performed prior to obtaining a new certificate of occupancy; and

WHEREAS, the applicant states that in order to remediate the contaminated soil the owner has hired an environmental consultant to perform the work and will also apply for a city grant under the Brownfield Incentive Grant Program; and

WHEREAS, at hearing, the Board questioned whether the applicant had implemented the site improvement conditions from the prior grant, including the removal of a one-story frame enlargement from the existing building which is not reflected on the BSA-approved plans, the removal of graffiti, and the repaving of the parking lot; and

WHEREAS, in response, the applicant submitted photographs reflecting that the graffiti has been removed from the site, and states that, due to the need to excavate the site in connection with the soil remediation, the demolition of the enlargement of the building and the repaving of the parking lot will take place after the remediation work required by DEC is complete; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated November 1, 1960, so that as amended this portion of the resolution shall read: “to permit an extension of time to obtain a certificate of occupancy, to expire on November 9, 2012; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT a new certificate of occupancy shall be obtained by November 9, 2012;

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

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

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

(DOB Application No. 302265536)

Adopted by the Board of Standards and Appeals, November 9, 2010.

MINUTES

***The resolution has been revised to correct the DOB Application No. which read: “320008120” now reads: “302265536”. Corrected in Bulletin No. 8, Vol. 97, dated February 22, 2012.**

***CORRECTION**

This resolution adopted on January 31, 2012, under Calendar No. 321-63-BZ and printed in Volume 97, Bulletin No. 6, is hereby corrected to read as follows:

321-63-BZ

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

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

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

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

COMMUNITY BOARD #5BX

APPEARANCES –

For Applicant: Jay Segal.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted special permit for the construction of a Use Group 6D telephone exchange building; and

WHEREAS, a public hearing was held on this application on December 6, 2011 after due notice by publication in *The City Record*, with a continued hearing on January 10, 2012, and then to decision on January 31, 2012; and

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

WHEREAS, Community Board 5, Bronx, recommends approval of this application with the certain conditions, including: (1) all signage comply with ZR § 122-20; (2) the main entrance, lobby, elevators and revolving doors respect the historical design of the building; (3) retail establishments not operate on a 24 hour basis; and (4) all Grand Concourse retail store deliveries be in compliance with Department of Transportation regulations to avoid traffic congestion and

unnecessary double parking on the Grand Concourse; and

WHEREAS, the site is bounded by the Grand Concourse to the east, East 175th Street to the north, and Walton Avenue to the west, in an R8 zoning district within the Special Grand Concourse Preservation District; and

WHEREAS, the site has approximately 201 feet of frontage on the Grand Concourse, 265 feet of frontage on East 175th Street, 190 feet of frontage on Walton Avenue, and a total lot area of 44,288 sq. ft.; and

WHEREAS, the applicant notes that the building is situated such that it contains street level frontage on portions of its first story (on Walton Avenue and East 175th Street) and on a portion of its fourth story (on the Grand Concourse); thus, the building has five stories at or above the level of the Grand Concourse and three stories below the level of the Grand Concourse; and

WHEREAS, the subject site is occupied by an eight-story building with the following uses listed on the certificate of occupancy: Use Group 6D telephone exchange at the first, second, third, fifth and sixth floors, Use Group 4 hospital-related office facilities for the Bronx Lebanon Hospital Center (“Bronx Lebanon”) at the fourth floor, and Use Group 6 offices for the New York City Human Resources Administration (“HRA”) at the seventh and eighth floors; and

WHEREAS, the applicant states that the building is currently vacant except for the continued use of the Use Group 6D telephone exchange use on the second and third floors, and portions of the cellar and first floor; and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1926 when, under BSA Cal. No. 358-26-BZ, the Board granted a variance to permit the construction of a telephone exchange building on the subject site, which at the time was split-zoned between a business district and a residence district; and

WHEREAS, on June 11, 1963, under the subject calendar number, the Board granted a special permit under ZR § 73-65, to permit the construction of an eight-story enlargement to the existing building, which extended the footprint of the building from approximately 50 percent of the zoning lot to approximately 85 percent of the zoning lot; and

WHEREAS, on March 17, 1987, the Board granted an amendment to permit the fourth story of the building to be used as Use Group 4 hospital related office facilities only for Bronx Lebanon; and

WHEREAS, most recently, on January 6, 1988, the Board granted an amendment to permit the seventh and eighth stories of the building to be used for Use Group 6 offices only for HRA; and

WHEREAS, the applicant now seeks an amendment to permit the following uses: (1) boiler room, storage and telephone exchange equipment at the cellar; (2) an attended accessory group parking facility for 100 cars and open accessory parking for up to ten vehicles, a loading berth and ten to 18 bicycle spaces at the first floor; (3) telephone exchange use at the second and third floors; (4) retail, office and/or limited community facility use at the fourth floor; and

MINUTES

(5) office and/or limited community facility use at the fifth through eighth floors; and

WHEREAS, the applicant represents that, if not for the existence of the subject special permit, all of the proposed use changes would be allowed as-of-right under the Zoning Resolution; and

WHEREAS, specifically, the applicant states that ZR § 52-34 would allow the conversion of any portion of the building to the proposed limited community facility use as a conforming use in the R8 district, and ZR § 122-10(c) would allow the portions of the building used for Use Group 6D telephone exchange uses on or before July 1, 1981, which constituted the entire building, to be converted to offices; and

WHEREAS, the applicant further states that the fourth story could be converted to retail use as-of-right because its location at street level on the Grand Concourse qualifies it as a “ground floor” pursuant to ZR § 122-10(c); and

WHEREAS, by letter dated December 5, 2011, the Department of City Planning confirms that the term “ground floor” in ZR § 122-10(c) is interpreted in the subject case to include the frontage along the Grand Concourse; and

WHEREAS, subject to a private agreement with the landlord, the applicant states that the community facility uses within the building will be limited to the following uses without sleeping accommodations: (1) colleges or universities, including professional schools but excluding business college or trade schools; (2) museums or non-commercial art galleries but not libraries; (3) schools; (4) ambulatory diagnostic or treatment health care facilities, limited to public, private, for-profit or not-for-profit medical, health and mental health care facilities licensed by the State of New York, or a facility in which patients are diagnosed or treated by health care professionals, licensed by the State of New York or by persons under the supervision of such licensee for medical, health or mental health conditions, and where such patients are ambulatory rather than admitted (such facilities shall not include the practice of veterinary medicine, physical culture or health establishments, ophthalmic dispensing, abortion clinics or drug treatment facilities); (5) non-profit or voluntary hospitals and related facilities without overnight admission, but not animal hospitals; (6) philanthropic or non-profit institutions without sleeping accommodations; and (7) welfare centers; and

WHEREAS, the applicant represents that allowing the vacant portions of the building to be occupied by general offices or limited community facility uses would facilitate the re-tenanting of these spaces; and

WHEREAS, the applicant notes that the fourth, seventh, and eighth floors were previously permitted to be occupied by office use pursuant to amendments granted by the Board, but that the restriction of the space to particular tenants (Bronx Lebanon and HRA, respectively) resulted in the current vacancy of these spaces; and

WHEREAS, the applicant states that, even though no requirement for accessory off-street parking is triggered by the proposed use changes, the number of new parking

spaces proposed (100 in addition to up to ten existing spaces within the open area south of the building) is consistent with general parking principles in the Zoning Resolution; and

WHEREAS, the applicant agreed to comply with the above-mentioned conditions stipulated by the Community Board; and

WHEREAS, at hearing, the Board raised concerns about whether the proposal reflected a sufficient number of loading berths, whether the anticipated number of truck deliveries to the retail space on the site would be compatible with traffic patterns, the operation of the proposed garage, and whether the signage complies with the underlying district regulations; and

WHEREAS, in response, the applicant states that if the subject site were located in a commercial district, two loading berths would be required for the building, but one loading berth is sufficient for the subject building because: (1) the ground floor will not generate a need for loading, as it will be used as a parking garage; (2) the second and third floors will continue to be used as a telephone exchange, which will have a dedicated entrance on Walton Avenue (adjacent to the remaining loading berth) through which most loading requirements will be handled; (3) the fourth floor retail loading will be from the Grand Concourse level (during non-business hours only) instead of from the loading berth, as it will be easier to perform loading activities for the retail spaces directly from the Grand Concourse level rather than from the loading berth at the rear of the building several floors below the retail spaces; and (4) floors five through eight, which are proposed for office use and collectively contain approximately 145,000 sq. ft., will only generate a requirement for one loading berth; and

WHEREAS, the Board raised questions about the effect loading would have on the operation of the bike lane on Grand Concourse; and

WHEREAS, in response, the applicant states that it will put a provision in the lease requiring loading for the retail space to occur only at night, when there is minimal bicycle traffic; and

WHEREAS, as to the anticipated number of truck deliveries to the retail space, the applicant submitted a letter from the owner stating that similar size stores in comparable locations estimate six deliveries a day by parcel size trucks to restock the space; and

WHEREAS, as to the operation of the garage, the applicant states that it is proposing an accessory garage with spaces available to tenants and their invitees; and

WHEREAS, as to signage, the applicant states that all signs will comply with the Special Grand Concourse Preservation District regulations, pursuant to ZR § 122-20; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 11, 1963, so that as amended this portion of the resolution shall read: “to permit the proposed modifications to the previously-approved plans; *on condition* that all work shall substantially

MINUTES

conform to drawings as they apply to the objections above-noted, filed with this application and marked 'Received October 13, 2011'-(13) sheets and 'November 22, 2011'-(3) sheets; and *on further condition:*

THAT all signage shall comply with the Special Grand Concourse Preservation District regulations, pursuant to ZR § 122-20;

THAT all retail uses on the site shall not operate on a 24-hour basis;

THAT vehicle loading for retail uses from Grand Concourse will be limited to the hours of 7:00 p.m. through 7:00 a.m. and such condition will be reflected on all retail leases;

THAT the community facility uses within the building shall not include sleeping accommodations and shall be limited to the uses indicated on the BSA-approved plans;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 220143146)

Adopted by the Board of Standards and Appeals January 31, 2012.

***The resolution has been revised to amend the clause in the 3rd Condition. Corrected in Bulletin No. 8, Vol. 97, dated February 22, 2012.**

*CORRECTION

This resolution adopted on February 7, 2012, under Calendar No. 54-11-BZ and printed in Volume 97, Bulletin No. 7, is hereby corrected to read as follows:

54-11-BZ

CEQR #11-BSA-087K

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

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

PREMISES AFFECTED – 6010 Bay Parkway, west side of Bay Parkway between 60th Street and 61st Street, Block 5522, Lot 36 & 42, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 25, 2011, acting on Department of Buildings Application No. 310101047, reads in pertinent part:

Proposed number of accessory parking spaces for the building at the premises is less than the number of parking spaces required by ZR Section 36-21; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within a C1-3 (R6) zoning district, a reduction in the required number of accessory parking spaces for a mixed-use community facility/commercial building from 231 to 177, contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on August 16, 2011, after due notice by publication in The City Record, with continued hearings on September 13, 2011, October 18, 2011, November 22, 2011 and January 10, 2012, and then to decision on February 7, 2012; and

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

WHEREAS, City Council Member David G. Greenfield and New York State Assemblymember William Colton provided testimony in opposition to the application; and

WHEREAS, Community Board 12, Brooklyn, recommended disapproval of the application; and

WHEREAS, the Neighbors for the Preservation and

MINUTES

Development of Brooklyn Southwest, represented by counsel, provided testimony in opposition to the proposal stating concerns that (1) the applicant does not meet the requirements of the special permit including that it act in good faith, (2) there is a discrepancy between the required number of parking spaces set forth in the as-of-right approval and the proposal for a reduction before the Board, (3) there are flaws in the parking studies and the calculation of parking demand, and (4) any reduction in parking will negatively impact the surrounding area; and

WHEREAS, certain members of the community provided oral testimony in opposition to this application, citing concerns with its effect on parking in the surrounding neighborhood due to high parking demand associated with three area schools and existing parking demands; and

WHEREAS, the subject site is located on a through lot with frontage on Bay Parkway, 61st Street, and 60th Street, within a C1-3 (R6) zoning district; and

WHEREAS, the site is under construction with an as-of-right mixed-use community facility/commercial building, pursuant to DOB approval; and

WHEREAS, the applicant initially proposed a nine-story mixed-use community facility/commercial building with 93,920 sq. ft. of floor area and 120 accessory parking spaces, which required a reduction from the required 235 parking spaces (four for commercial use and 231 for community facility use); and

WHEREAS, at the Board's direction and after several iterations, the applicant now proposes a nine-story mixed-use community facility/commercial building with 92,304 sq. ft. of floor area (90,837 sq. ft. for community facility use and 1,467 sq. ft. for commercial use) and 177 accessory parking spaces with a program as follows: (1) 57 parking spaces in the cellar (including 18 stackers); (2) UG 6 commercial use and UG 4 community facility use on the first floor; (3) 48 parking spaces on the second floor; (4) 72 parking spaces on the third floor; and (5) community facility use on the fourth through ninth floors; and

WHEREAS, the initial proposal reflected an attended parking lot without stackers and the current proposal reflects an attended parking lot with stackers; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject C1-3 (R6) zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for ambulatory diagnostic or treatment facilities in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 400 sq. ft. of floor area to one space per 800 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 36-21 the total number of required parking spaces for all uses at the site is 231; and

WHEREAS, the applicant represents that the proposed 177 parking spaces are sufficient to accommodate the parking demand generated by the use of the site; and

WHEREAS, the applicant notes that 1,467 sq. ft. of floor area in the building is occupied by commercial space, which is not in parking category B1 and therefore the

associated four required spaces have been excluded from the calculations for the requested reduction in parking; and

WHEREAS, the applicant states that the remaining 90,837 sq. ft. of floor area at the site will be occupied by ambulatory diagnostic or treatment facility space, which is eligible for the parking reduction under ZR § 73-44; at a rate of one required parking space per 400 sq. ft. of floor area, 227 parking spaces are required for this use; and

WHEREAS, accordingly, the total number of parking spaces which are eligible under the special permit is 227; as noted, the special permit allows for a reduction from one space per 400 sq. ft. of floor area to one space per 800 sq. ft. of floor area, which would reduce the required parking for these uses to 114 spaces; and

WHEREAS, as noted, an additional four parking spaces are required for the 1,467 sq. ft. of floor area occupied by commercial space, which is not eligible for the special permit; and

WHEREAS, thus, the special permit allows for a reduction to a total of 118 parking spaces on the site; and

WHEREAS, the applicant notes that the proposed total of 177 accessory parking spaces would provide 59 more spaces than the minimum of 118 required under the special permit; and

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

WHEREAS, the applicant states that the facility will be occupied by existing ambulatory diagnostic facilities currently operating in the area, including those associated with Maimonides Hospital, who are waiting to move to the site and who have committed to lease 52,650 sq. ft. of the building; the remaining floor area is anticipated to be used and restricted to similar ambulatory diagnostic uses; and

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

WHEREAS, the Board finds that the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

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

WHEREAS, in response to the community's concerns about parking demand, the applicant asserts that its studies reflect a peak parking demand of 131 cars, and the proposed 173 spaces for community facility use provide an excess of 42 parking spaces, or 32 percent more than is required to satisfy the peak parking demand; and

WHEREAS, the applicant asserts that the onsite parking will be able to accommodate the facility's parking

MINUTES

demand and will not create a demand for curbside or other off-site parking; and

WHEREAS, in support of this assertion, the applicant submitted a parking demand analysis into the record; and

WHEREAS, the applicant notes that its parking demand analysis was based on Institute of Transportation Engineers (ITE) traffic standards to establish the number of person trips to the site, which reflects 317 person trips during peak periods; and

WHEREAS, however, the applicant notes that to establish the number of people who would drive to the site, it performed a parking demand survey from the existing facilities to be relocated to the site, which reflected that 38 percent of patients and employees would drive to the site daily; and

WHEREAS, the applicant then applied the 38 percent to the ITE data and found that the peak parking demand would be 121 spaces, which is a revision of a prior determination of 131 spaces due to a failure to account for the overlap of 75 percent of patients of one of the building's programs (RadNet) to other programs in the building; and

WHEREAS, the applicant notes that if it were to use its survey data, rather than the adjusted ITE data and apply it to the entire building, the peak parking demand would be 143 spaces; and

WHEREAS, the applicant derives the more conservative 143 spaces by noting that, based on surveys of the existing offsite facilities, 151 people (93 patients and 58 staff) will drive to the site to visit the practices occupying 52,650 sq. ft. of the already leased space; the applicant extrapolated that the remaining portions of the building not already leased will be occupied by tenants with similar travel characteristics and thus, for the additional 38,187 sq. ft. of community facility space, the result would be 139 additional daily driving trips (91 patients and 48 staff); and

WHEREAS, the applicant's analysis resulted in a conclusion that 151 trips (based on the survey) and 139 trips (based on extrapolation) amount to 290 daily vehicle trips, consisting of 184 patient and 106 staff trips; and

WHEREAS, the applicant asserts that patient visits will have an anticipated duration of two hours and will be spread across the course of a ten-hour day from 8:00 a.m. to 6:00 p.m.; and

WHEREAS, the applicant concludes that the proposed 173 spaces would accommodate the peak parking demand under either the ITE or parking survey of existing facilities methodologies as the adjusted ITE analysis reflects a peak parking demand of 121 parking spaces for community facility use, or 52 fewer spaces than the proposed, and the parking survey analysis reflects a demand of 143 parking spaces, or 30 fewer than the proposed; and

WHEREAS, during the hearing process, the Board directed the applicant to explore redesign of the parking facilities to maximize utility and to eliminate any non-essential space (such as the cafeteria) in the cellar to allow for additional parking; and

WHEREAS, in response, the applicant stated that the

first floor cannot be re-designed since it will be occupied by MRI equipment which, due to its sensitivity and size must be located on the first floor so that it can be serviced and moved through a portion of removable facade; and

WHEREAS, the applicant has met with DOB to review the maneuverability and other parking calculations and has maximized the number of stackers, which it will reserve for employee use; and

WHEREAS, in response to questions about maximum parking space occupancy, the applicant confirmed DOB's requirement for 200 sq. ft. per car and 153 sq. ft. per car for the second car in a stacker; and

WHEREAS, accordingly, after the redesign of the cellar space and removal of all nonessential spaces, the applicant states that DOB would not approve any more spaces and/or stackers than the 57 proposed for the cellar and the corresponding numbers on the second and third floor; and

WHEREAS, based upon the applicant's revised analysis and current parking layout, the Board agrees that the accessory parking space needs can be accommodated even with the parking reduction; and

WHEREAS, in response to the opposition's concerns that the surveys which analyze the number of people coming to the site by car versus public transportation may not be comparable to the proposed location, the applicant noted that public transportation access to the subject site, including two buses (B6 and B9) within one block of the site, two subways (F and N) approximately one-third of a mile from the site, and four buses (B4, B11, B8, and B82) within .6 to .91 miles from the site, is better than that of the existing sites studied in the transportation surveys; and

WHEREAS, accordingly, the applicant asserts that the car versus public transportation assumptions it applied to the proposed site are conservative since based on areas with less access to public transportation; and

WHEREAS, the applicant also notes that it will be providing a bicycle storage room and states that it will encourage bicycle use and carpooling; and

WHEREAS, the applicant also states that it approached several potential off site locations for parking, and was unable to find any with available parking spaces; and

WHEREAS, in response to the opposition's questions about different DOB approvals, the Board notes that DOB has approved as-of-right plans, which allow the applicant to continue construction, in contrast to the proposed plans before the Board which will allow for the as-of-right plans to be amended; and

WHEREAS, the Board notes that 231 spaces are required for the proposed building and that a smaller building was approved at DOB, which requires only 206 parking spaces; the waiver request is from 231 spaces (less the four spaces for commercial use); and

WHEREAS, the Board notes that the special permit allows for a reduction in parking by 50 percent and that the current proposal for 173 spaces for community facility use reflects a reduction of 54 spaces or approximately 24

MINUTES

percent; and

WHEREAS, the Board notes that the proposed use is as-of-right and the reduction is less than half the maximum reduction contemplated by the special permit; and

WHEREAS, accordingly, the Board finds that the proposed use will not have an adverse impact on the community, will not interfere with any public improvement project, and will not interfere with the existing street system; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11BSA087K, dated July 11, 2011; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-44 and 73-03 to permit, within an C1-3 (R6) zoning district, a reduction in the required number of accessory parking spaces for a mixed-use community facility/commercial building from 231 to 177, contrary to ZR § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received February 1, 2012"-twenty-two (22) sheets, and on further condition:

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

THAT a minimum of 177 parking spaces will be provided in the accessory parking garage in the subject

building;

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

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

THAT the layout and design of the accessory parking lot will 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 will 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 7, 2012.

***The resolution has been revised to correct the required parking spaces and the community facility use in the 11th WHEREAS, which read: "...231 parking spaces and 227 for community facility use..." now reads: "...235 parking spaces and 231 for community facility use..." , and to amend the clause in the 48th WHEREAS. Corrected in Bulletin No. 8, Vol. 97, dated February 22, 2012.**

MINUTES

*CORRECTION

This resolution adopted on February 7, 2012, under Calendar No. 166-11-BZ and printed in Volume 97, Bulletin No. 7, is hereby corrected to read as follows:

166-11-BZ

CEQR #12-BSA-035M

APPLICANT – Ellen Hay/Wachtel & Masyr LLP, for Roc Le Triomphe Associates LLC, owners; Crunch LLC, lessee. SUBJECT – Application October 24, 2011 – Special Permit (§73-36) to continue the operation of the Physical Culture Establishment (*Crunch Fitness*). C2-8 (TA) zoning district. PREMISES AFFECTED – 1109 Second Avenue, aka 245 East 58th Street, west side of Second Avenue between East 58th and East 59th Streets, Block 1332, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Ellen Hay.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated October 12, 2011, acting on Department of Buildings Application No. 120857260, reads in pertinent part:

Proposed Physical Culture establishment is not permitted as per ZR 73-36 unless granted special permits by the Board of Standards and Appeals as per ZR 32-31; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in an C2-8 zoning district within the Special Transit Land Use District (TA), the operation of a physical culture establishment (“PCE”) in a portion of the first floor, cellar, and sub-cellar of a 29-story mixed-use residential/commercial building, contrary to ZR § 32-31; and

WHEREAS, a public hearing was held on this application on January 10, 2012, after due notice by publication in *The City Record*, and then to decision on February 7, 2012; and

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

WHEREAS, Community Board 6, Manhattan, states that it has no objection to this application; and

WHEREAS, the subject site located on the west side of Second Avenue between East 58th Street and East 59th Street in a C2-8 zoning district within the Special Transit Land Use District (TA); and

WHEREAS, the subject site is occupied by a 29-story

mixed-use residential/commercial building with residential use on the fourth through 29th floors and commercial use on the sub-cellar, cellar, first, and second levels; and

WHEREAS, the Board first approved the PCE on July 22, 1997, pursuant to BSA Cal. No. 195-96-BZ, for a term of ten years which expired on October 1, 2006; and

WHEREAS, the site is also the subject of a City Planning special permit for the building pursuant to ZR § 74-95, which was modified to allow for the PCE and associated signage; and

WHEREAS, the PCE occupies 36,119 sq. ft. of floor space on portions of the sub-cellar, cellar, and first floor levels; and

WHEREAS, the PCE is operated as Crunch Fitness; and

WHEREAS, the PCE operates Monday through Thursday 5:00 a.m. to 11:00 p.m.; Friday 5:00 a.m. to 10:00 p.m.; and Saturday and Sunday from 7:00 a.m. to 9:00 p.m.; and

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

WHEREAS, the applicant states that commercial and accessory residential uses on the second and third floor separate and, thus serve as a buffer between, the PCE on the first floor from the residential use on the fourth floor and above; and

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 12BSA035M, dated October 19, 2011; and

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

MINUTES

Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

dated February 22, 2012.

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located in an C2-8 zoning district within the Special Transit Land Use District (TA), the operation of a physical culture establishment in a portion of the first floor, cellar, and sub-cellar of a 29-story mixed-use residential/commercial building, contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received October 20, 2011"- (5) sheets, and *on further condition*:

THAT the term of this grant will expire on February 7, 2022;

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

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

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

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

THAT sound attenuation measures must be installed in the PCE as shown on the Board-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2012.

***The resolution has been revised to correct the term of this grant which read: "February 7, 2012"... now reads: "February 7, 2022". Corrected in Bulletin No. 8, Vol. 97,**