
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

Commissioners

Jeffrey Mulligan, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

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

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

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DOCKETS

New Case Filed Up to October 31, 2006

286-06-BZ

1847 60th Street, Northside of 60th Street between 18th Avenue and 19th Avenue, Block 5512, Lot 56, Borough of **Brooklyn, Community Board: 12**. Under 72-21-To permit the proposed synagogue which does not comply with floor area (24-162a); side yards(24-35) and Number of stories at rear (24-33).

287-06-BZ

32-12 23rd Street, 33rd Avenue and Broadway, Block 555, Lot 36, Borough of **Queens, Community Board: 1**. Under 72-21-Legalization of conversion of one dwelling unit in a new building.

288-06-BZ

223-07 Hempstead Avenue, Northside of Hempstead Avenue between 223rd and 224th Streets, Block 10796, Lot 4, Borough of **Queens, Community Board: 13**. Under-72-21-To allow the development of a two-story and cellar church.

289-06-BZ

4025 Laconia Avenue, Between East 228th Street and East 227th Street, Block 4874, Lot 1, Borough of **Bronx, Community Board: 5**.

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

DECEMBER 5, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 5, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

308-79-BZ

APPLICANT – Stuart A. Klein, Esq., for St. George Tower & Grill Owners Corp., owner; St. George Health & Racquet Assoc. LLC; lessee.

SUBJECT – Application July 3, 2006 - Extension of Term/Amendment/Waiver - To allow the continuation of an existing Physical Culture Establishment, located in a R7-1 (LH-1) zoning district, which was granted pursuant to section 73-36 of the zoning resolution. The amendment seeks to make minor interior modifications.

PREMISES AFFECTED – 43 Clark Street aka 111 Hicks Street, south west corner of Hicks and Clark Streets, Block 231, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #2BK

619-83-BZ

APPLICANT – Harold Weinberg, P.E., for Shalmoni Realty, Inc., owner.

SUBJECT – Application May 25, 2006 – Extension of Term/Waiver-for an existing automotive repair facility (use group 16) with parking for more than 5 vehicles located in a R5 zoning district. The waiver is sought due to the fact that the term expired on December 20, 2003.

PREMISES AFFECTED – 552-568 McDonald Avenue, corner of Avenue C and Church Avenue, Block 5352, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #12BK

190-92-BZ/191-92-A

APPLICANT – Alfonso Duarte, for 180 Tenants Corp., owner; Waterview Parking Inc., lessee.

SUBJECT – Extension of Term to allow the use of surplus parking spaces for transient parking which was granted contrary to Section 60, Sub. 1b of the Multiple Dwelling Law. R10A & R8B zoning district.

PREMISES AFFECTED – 180 East End Avenue, north side between East 88th and East 89th Streets, Block 1585, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

44-06-BZII

APPLICANT– Rothkrug, Rothkrug & Spector, for Philip & Laura Tuffnel, owner.

SUBJECT – Application October 13, 2006 – Rehearing of a previously granted variance (72-21) the vertical enlargement of an existing single family home, to permit notification of affected property owners and public officials in an R3A zoning district.

PREMISES AFFECTED – 150-24 18th Avenue, south side of 18th Avenue, 215’ east of intersection with 150th Street, Block 4687, Lot 43, Borough of Queens.

COMMUNITY BOARD #7Q

APPEALS CALENDAR

174-06-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for PSCH, owner.

SUBJECT – Application August 11, 2006 - Proposed construction and enlargement of a community facility (PSCH) located within the bed of mapped street (119th Street) is contrary to Section 35 of the General City Law. M1-1 Zoning District

PREMISES AFFECTED – 22-44 119th Street, northwest corner of 23rd Avenue and 119th Street, Block 4194, Lot 20, Borough of Queens.

COMMUNITY BOARD #7Q

273-06-A

APPLICANT – Gary Lenhart, for The Breezy Point Cooperative, Inc., owner; Mary Ellen & Joseph Duggan, lessees.

SUBJECT – Application October 11, 2006 – Proposed reconstruction and enlargement of an existing single family dwelling not fronting on a mapped street, contrary to Article 3, Section 36 of the General City Law. R-4 zoning district.

PREMISES AFFECTED – 113 Beach 221st Street, east side of Beach 221st Street, 240’ south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

CALENDAR

DECEMBER 5, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, December 5, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

239-04-BZ

APPLICANT- Agusta & Ross, for 341 Scholes Street, LLC, owner.

SUBJECT - Application June 24, 2004 - Variance (72-21) to permit the proposed residential occupancy, Use Group 2, within an existing loft building, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 225 Starr Street, northerly side of Starr Street, 304' east of Irving Avenue, Block 3188, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #4BK

99-06-BZ

APPLICANT- Patrick W. Jones, P.C., for Norsel Realities c/o Steinberg & Pokoik, owners; Mothers Work, Inc., lessee.

SUBJECT - Application May 15, 2006 - Special Permit 73-36 - to permit the legalization of an existing physical cultural establishment (Edamame Spa) located in the cellar portion of a 25 story commercial building located within a C5-3 (MID) Zoning District.

PREMISES AFFECTED - 575 Madison Avenue (aka 53/57 East 56th Street, aka 28/30 East 57th Street) East side of Madison Avenue, between East 56th and East 57th Streets, Block 1292, Lot 52, Borough of Manhattan.

COMMUNITY BOARD # 5M

122-06-BZ

APPLICANT- Sheldon Lobel, P.C., for Revelation Development, Inc., owner.

SUBJECT - Application June 12, 2006 - Variance (Section 72-21) to permit the proposed enlargement of an existing medical office building and construction of residences without the required front and side yard. The Premise is located in a portion of an R5 and a portion of a C2-3/R5 zoning district. The proposal is seeking waivers relating to 23-45 and 24-34 (Front yard) and 23-462 and 24-35 (Side Yard).

PREMISES AFFECTED - 2671 86th Street, West 12th and West 11th Streets, Block 7115, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #15BK

137-06-BZ

APPLICANT- Rothkrug Rothkrug & Spector, LLP, for Adragna Realty, LLC., owner.

SUBJECT - Application June 30, 2006 - Variance (72-21) for the proposed construction of a two-family dwelling on a vacant lot that does not provide a required side yard (23-461) and does not line up with front yard line of adjacent lot (23-45 (b)) in an R4A zoning district.

PREMISES AFFECTED - 1717 Hering Avenue, west side of Hering Avenue 325' south of Morris Park Avenue, Block 4115, Lot 23, Borough of The Bronx.

COMMUNITY BOARD # 11BX

180-06-BZ

APPLICANT- Kramer Levin Naftalis & Frankel, LLP, for Yeshiva University, owner.

SUBJECT - Application August 18, 2006 - Zoning variance to allow a new six (6) story academic building (UG 3) for Yeshiva University that would violate applicable lot coverage (§ 24-11), rear yard (§ 24-36 and § 24-391) and height and setback requirements (§ 24-522).

PREMISES AFFECTED - 515 West 185th Street, northwest corner of Amsterdam Avenue and West 185th Street, Block 2156, Lots 46, 61, 64, 146, 147, Borough of Manhattan.

COMMUNITY BOARD #12M

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, OCTOBER 31, 2006
10:00 A.M.**

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

The motion is to approve the minutes of regular meetings of the Board held on Tuesday morning and afternoon, August 15, 2006 as printed in the bulletin of August 24, 2006, Volume 91, No. 33. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

413-50-BZ, Vol. II

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

SUBJECT – Application October 12, 2005 – Pursuant to ZR §11-411 and §11-412 for an Extension of Term of a Gasoline Service Station-UG 16 (BP North America) for ten years which expired on November 18, 2005. This instant application is also for an Amendment to legalize modifications to the previously approved signage on site.

PREMISES AFFECTED – 691/703 East 149th Street, northwest corner of Jackson Avenue, Block 2623, Lot 140, Borough of The Bronx.

COMMUNITY BOARD #15BX

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this application is a request for a reopening, an amendment to the approved plans, and an extension of term for a previously granted variance for a gasoline service station, which expired on November 18, 2005; and

WHEREAS, a public hearing was held on this application on June 13, 2006 after due notice by publication in *The City Record*, with continued hearings on July 18, 2006, August 22, 2006, and then to decision on October 31, 2006; and

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

WHEREAS, Community Board, 15, Bronx, recommends approval of this application on the condition that the tenant be evicted; and

WHEREAS, the site is located on the northwest corner of East 149th Street and Jackson Avenue; and

WHEREAS, the site is located within a C2-4 (R7-1) zoning district and is improved upon with a gasoline service

station; and

WHEREAS, the Board has exercised jurisdiction over lot 140 since November 14, 1950 when, under the subject calendar number, the Board granted a variance for the maintenance and construction of a gasoline service station; and

WHEREAS, at the time this prior grant was made, lot 140 encompassed more lot area than it does now; and

WHEREAS, specifically, on January 25, 1994, under the subject calendar number, the 1950 grant was amended to permit the subdivision of lot 140 into two tax lots – lot 141 (the “adjacent lot”), with frontage along the northeast corner of Trinity Avenue and East 149th Street; and lot 140 (the “subject lot”), with frontage (as indicated above) along the northwest corner of East 149th Street and Jackson Avenue; and

WHEREAS, the adjacent lot is now occupied by a stand-alone parking lot; the subject lot is still occupied by a service station; and

WHEREAS, only the subject lot remains under the jurisdiction of the Board; and

WHEREAS, one of the conditions of the 1994 grant was that a chain link fence be installed and maintained on lot 140, along the full length of the lot line separating the two lots; and

WHEREAS, on May 20, 1997, the 1994 grant was extended for a further term, which expired on November 18, 2005; and

WHEREAS, the applicant now requests an additional ten-year term and an amendment to permit changes to the previously approved signage for the service station; and

WHEREAS, the applicant represents that new signage is required to reflect the company name and logo of a prospective operator, who will replace the existing tenant; and

WHEREAS, the applicant represents that the proposed signage complies with C2-4 zoning district regulations; and

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

WHEREAS, pursuant to ZR § 11-412, the Board may permit an alteration to a site subject to a previously granted variance, including a change to signage; and

WHEREAS, however, at hearing, the Board expressed concerns about the following site conditions, which appeared to deviate from the prior grant and from the previously approved plans: (1) the large number of cars parked and apparently for sale on the subject lot, (2) the lack of a fence with a closed gate, separating the subject lot from the adjacent lot, and (3) excessive and impermissible signage, including some signs posted on the sidewalk; and

WHEREAS, as a general response to all of these concerns, the applicant stated that the current tenant was uncooperative and was deliberately failing to comply with the prior grants; and

WHEREAS, further, the applicant responded that the tenant at the site was not conducting business in accordance with the lease and would be evicted; and

WHEREAS, the applicant stated that the eviction was scheduled for October 27, 2006; and

WHEREAS, the applicant represents that all of the

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conditions imposed by the Board in prior grants cannot be implemented until the tenant leaves the site; and

WHEREAS, the applicant submitted a letter from the owner of the site to the tenant regarding the plans to evict; and

WHEREAS, the Board understands that the tenant is uncooperative, and accepts the letter as evidence that the owner will evict the tenant and cure the outstanding conditions; and

WHEREAS, notwithstanding this explanation, the Board addressed the above-mentioned concerns, and asked the applicant to respond to each; and

WHEREAS, specifically, as to the vehicles parked on site, the Board notes that the approved plans only allow for two parking spaces, yet it observed through a site visit and the review of photographs that there were at least twelve vehicles parked on the subject lot; and

WHEREAS, further, it appeared that the vehicles were for sale; and

WHEREAS, the Board informed the applicant that its past grant did not allow for the sale of cars on the subject lot; and

WHEREAS, the applicant conceded the non-compliance, but contended that the owner of the site did not authorize the tenant to permit parking in excess of the two spaces permitted as per the approved plans; and

WHEREAS, nonetheless, the Board directed the applicant to restrict parking at the site to accessory parking for the service station and to prohibit the sale of cars; and

WHEREAS, the Board also directed the applicant to post signs indicating that parking was not permitted at the site; and

WHEREAS, as to the fence, the Board observed that it did not extend the full length of the lot line, as required by the previously approved plans, and that there was an open gate in the fence; and

WHEREAS, at hearing, the Board asked the applicant if there was any connection between the two lots; and

WHEREAS, the applicant responded that there is no relationship between the two lots; and

WHEREAS, accordingly, the Board directed the applicant to close the gate and any other physical connection between the two lots, and to extend the fence along the entire lot line; and

WHEREAS, as to the signage, the Board observed signs on the subject lot that appeared to be non-compliant with the prior grants, including one sign located on the sidewalk; and

WHEREAS, in response, the applicant agreed to remove all non-compliant signage; and

WHEREAS, further, the applicant submitted a revised signage plan indicating the size and placement of all signage and its compliance; and

WHEREAS, the applicant subsequently submitted photographs reflecting the site with the extended fence and corrected signage, and without the excess cars; and

WHEREAS, the applicant indicated that any remaining outstanding conditions will be resolved upon the eviction of the current tenant; and

WHEREAS, based upon the above representations, the Board finds that the requested extension of term and amendments to the approved plans 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 November 14, 1950, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the term for ten years from November 18, 2005 to expire on November 18, 2015, and to legalize modifications to the previously approved signage at the site *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received October 4, 2006’–(6) sheets; and *on further condition*:

THAT the term of this grant shall expire on November 18, 2015;

THAT accessory parking at the site shall be limited to two cars;

THAT there shall be no car sales at the site;

THAT a permanent fence without any opening shall be maintained between the site and tax lot 141 as indicated on the BSA-approved plans;

THAT the site shall be cleaned and maintained;

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

THAT the placement and size of all signs shall be as indicated on the BSA-approved plans;

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

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

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

(DOB Application No. 200993826)

Adopted by the Board of Standards and Appeals, October 31, 2006.

459-73-BZ

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

SUBJECT – Application August 21, 2006 – Extension of Term of a special permit, granted pursuant to section 73-50 of the zoning resolution, allowing a waiver of the rear yard requirement for a lot located along district boundaries. The premises is located within a C8-1 zoning district.

PREMISES AFFECTED – 2424-48 Flatbush Avenue, southwest corner of the intersection of Flatbush Avenue and Avenue T, Block 8542, Lots 41 and 46, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Application granted on condition.

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THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this application is a request for a re-opening and an elimination of the term of a previously granted special permit made pursuant to ZR §73-50, which allowed a waiver of the rear yard requirement for a lot divided by district boundaries; and

WHEREAS, a public hearing was held on this application on October 17, 2006, after due notice by publication in *The City Record*, and then to decision on October 31, 2006; and

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application, on condition that all conditions of prior grants be adhered to and that the sidewalk and curb cut on Flatbush Avenue be repaired; and

WHEREAS, the subject site is located on the southwest corner of Flatbush Avenue and Avenue T, and is within a C8-1 zoning district; and

WHEREAS, on January 8, 1974 the Board granted a special permit under the subject calendar number pursuant to ZR § 73-50, allowing the construction of a one-story enlargement to an existing supermarket that encroaches into the required rear yard, which is divided by a district boundary; the resolution did not specify a term; and

WHEREAS, subsequently, on July 21, 1992, the Board approved the installation of a freight elevator and loading berth; and

WHEREAS, this approval also imposed a term of five years on the grant; and

WHEREAS, this term was extended on July 25, 2000 for ten years from the expiration of the prior grant, to expire on July 21, 2007; and

WHEREAS, on October 22, 2002, the Board granted an extension of time to complete construction and obtain a certificate of occupancy; the certificate of occupancy was obtained in June 2003; and

WHEREAS, the applicant now seeks to eliminate the term; and

WHEREAS, during its review of this case, the Board observed that the submitted existing conditions plans reflected a change in the parking layout as set forth in the previously approved plans; and

WHEREAS, specifically, two new spaces were added; and

WHEREAS, while the Board did not explicitly approve the parking layout in the past action, it nevertheless asked the applicant whether these modifications interfered with the operation of the loading dock; and

WHEREAS, the applicant responded that there is sufficient space for all of the proposed parking spaces and that access to the loading dock is not blocked; and

WHEREAS, further, the Board also notes that any changes to the parking layout shall be as approved by DOB; and

WHEREAS, additionally, the Board has reviewed the Community Board's request and agrees that all conditions of the

prior resolutions remain in effect and that the sidewalk and curb cuts must be repaired and maintained in good condition; and

WHEREAS, the Board notes that because the enlargement granted in 1992 was for a permanent structure the term should be eliminated.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on January 8, 1974 so that as amended this portion of the resolution shall read: "to eliminate the term of the grant; *on condition* that the use shall substantially conform to drawings as filed with this application, marked 'Received October 20, 2006' –(5) sheets; and *on further condition*:

THAT the parking layout shall be as approved by DOB;

THAT the curb cuts and sidewalk shall be repaired and maintained;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect and must be implemented prior to the issuance of a new 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 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." (Alt. App. 766/1973)

Adopted by the Board of Standards and Appeals, October 31, 2006.

112-01-BZ

APPLICANT – Sheldon Lobel, P.C., for Doris Laufer, owner.

SUBJECT – Application May 15, 2006 – Pursuant to ZR §72-01 and §72-21 for an Extension of Time to obtain a Certificate of Occupancy which expired on November 20, 2003 for a Community Use Facility-Use Group 4 (Congregation Noam Emimelech) and an Amendment that seeks to modify §24-11, front wall height-ZR §24-521, front yard-ZR §24-31, side yard-24-35, lot coverage-ZR §24-11 and ZR §23-141(b) and off-street parking requirement for dwelling units-ZR §25-22.

PREMISES AFFECTED – 102 and 1406 59th Street, Block 5713, Lots 8 & 10, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Laid over to December 5, 2006, at 10 A.M., for deferred decision.

133-94-BZ

APPLICANT – Alfonso Duarte, for Barone Properties, Inc., owner.

SUBJECT – Application November 23, 2005 – Pursuant to ZR §11-411 and §11-413 for the legalization in the change of

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use from automobile repair, truck rental facility and used car sales (UG16) to the sale of automobiles (UG8) and to extend the term of use for ten years which expired on September 27, 2005. The premise is located in a C1-2/R2 zoning district. PREMISES AFFECTED – 166-11 Northern Boulevard, northwest corner of 167th Street, Block 5341, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E.

ACTION OF THE BOARD – Laid over to December 5, 2006, at 10 A.M., for continued hearing.

69-95-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for Hudson River Park Trust, owner; Chelsea Piers Management Inc., lessee.

SUBJECT – Application August 31, 2006 – Extension of Term/Amendment/Waiver - Application filed on behalf of the Sports Center at Chelsea Piers to Extend the term of the Special Permit which was granted pursuant to section 73-36 of the zoning resolution to allow the operation of a Physical Cultural Establishment in a M2-3 zoning district and expired on August 8, 2005. The application seeks to amend the resolution to reflect the elimination of the Health Club in the North head house of the Chelsea Piers Sport and Entertainment Complex.

PREMISES AFFECTED – Pier 60, 111B Eleventh Avenue, west side of West Street, between West 19th and West 20th Streets, Block 662, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Ellen Hay.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4
Negative:.....0

ACTION OF THE BOARD – Laid over to November 21, 2006, at 10 A.M., for decision, hearing closed.

363-04-BZ

APPLICANT – Mark A. Levine, Esq., for 6002 Fort Hamilton Parkway Partners, owners.

SUBJECT – Application June 27, 2006 – Amendment to reconfigure internal layout and minor changes to the structural façade. The premise is located in an M1-1 zoning district.

PREMISES AFFECTED – 6002 Fort Hamilton Parkway, a/k/a 949-959 61st Street, a/k/a 940-966 60th Street, south of 61st Street, east of Fort Hamilton Parkway, Block 5715, Lots 21 & 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Baruch Nalpern, Elena Kalman and Mitchell

Korbey.

ACTION OF THE BOARD – Laid over to November 21, 2006, at 10 A.M., for continued hearing.

APPEALS CALENDAR

286-05-A

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Ezra G. Levin, owner.

SUBJECT – Application September 14, 2006 – Proposed reconstruction and alteration of an existing building located in the bed of a mapped street (Sycamore Avenue) is contrary to General City Law Section 35. Premises is located within the R1-2 Zoning District.

PREMISES AFFECTED – 5260 Sycamore Avenue, east side of Sycamore between West 252nd Street and West 254th Street, Block 5939, Lot 380, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: James Power.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4
Negative:.....0

THE RESOLUTION:

WHEREAS, this is an appeal requesting a Board determination that the owner of the premises has obtained a vested right under the common law to complete an enlargement at both the front and rear of an existing two-story and attic single-family dwelling; and

WHEREAS, a public hearing was held on this application on September 12, 2006 after due notice by publication in *The City Record*, with continued hearings on October 17, 2006 and then to decision on October 31, 2006; and

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

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

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

WHEREAS, the subject premises is a 3,000 sq. ft. site on the east side of East 17th Street, between Avenue N and Avenue O; and

WHEREAS, the premises is improved upon with a two-story and attic single-family home; a one-story enlargement is proposed for the front and rear of the existing building; and

WHEREAS, specifically, the applicant proposes to construct a 9'-4½" deep front extension for the width of the existing home, which includes a new entrance; the enlargement at the rear includes a 5'-0" deep extension abutting a 6'-0" deep greenhouse; and

WHEREAS, the premises is currently located within an

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R4-1 zoning district, but was formerly located within an R6 zoning district; and

WHEREAS, the proposed enlargement complies with the former R6 zoning district parameters as to floor area and front yard requirements; and

WHEREAS, however, on April 5, 2006 (hereinafter, the "Enactment Date"), the City Council voted to adopt the Midwood Rezoning; and

WHEREAS, because the site is now within an R4-1 district, the proposed enlargement creates non-compliance as to floor area and front yard and therefore is not permitted; and

WHEREAS, specifically, the floor area is proposed to be increased from 2,692.5 sq. ft. to 3,039 sq. ft. (2,700 sq. ft., including an attic bonus, is the maximum permitted in the R4-1 district); and

WHEREAS, as to the required front yard, the proposed enlargement provides an 8'-5" front yard (a ten-foot front yard is required in the R4-1 zoning district); and

WHEREAS, the applicant requests that the Board find that based upon the amount of financial expenditures, including irrevocable commitments, and the amount of work completed, the owner has a vested right to continue construction and finish the proposed enlargement; and

WHEREAS, the applicant is requesting relief under the common law and constitutional theory of vested rights after it failed to obtain a reconsideration from DOB to allow work to continue; during the time that a reconsideration was sought, the statutory time limit to seek relief under ZR § 11-311 expired; and

WHEREAS, as a threshold matter in determining this appeal, the Board must find that the completed work was conducted pursuant to valid permits; and

WHEREAS, on January 13, 2006, under DOB Application No. (Alt. 2) 302058840, DOB issued a permit (the "Permit") to the owner to enlarge the existing home as discussed above; and

WHEREAS, on April 6, 2006, because of the zoning change, DOB issued a stop-work order on the Permit; and

WHEREAS, on September 6, 2006, DOB sent the applicant a ten-day notice to revoke approvals and permits based on objections raised by a special audit; and

WHEREAS, the applicant subsequently resolved all outstanding objections with DOB; and

WHEREAS, since the Permit is valid, the Board may properly consider all work performed between the time of its issuance and the Enactment Date; and

WHEREAS, assuming that a valid permit has been issued and that work proceeded under it, the Board notes that a common law vested right to continue construction generally exists where the owner has undertaken substantial construction and made substantial expenditures prior to the effective date of a zoning change, and where serious loss will result if the owner is denied the right to proceed under the prior zoning, and; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10 (2d Dept. 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to

the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance."; and

WHEREAS, as discussed by the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, as to enlargements specifically, in Bayswater Health Related Facility v. Karagheuzoff, 37 NY2d. 408, the Court of Appeals held that a vested right had been acquired for a conversion of existing structures to nursing homes because the "main building had already been gutted, its roof and sidewalks opened and exposed to the elements ..."; and

WHEREAS, the Board notes that from these cases, it is apparent that such factors as tangible physical change, including removing portions of the existing building and exposing it to the elements, are relevant to a finding of completion of substantial construction; and

WHEREAS, further, the Board agrees that, under the common law, a completion of substantial construction finding will depend, in part, upon a showing of actual construction work resulting in some tangible change to the structure being altered that is integral to the proposed work; and

WHEREAS, in its written statements and testimony, the applicant represents that: (1) the owner would suffer serious economic harm if unable to complete the enlargement; (2) as of the Enactment Date, substantial construction had been completed; and (3) substantial expenditures were made after the issuance of the Permit; and

WHEREAS, as to serious economic harm, the applicant represents that considerable planning and construction has been expended towards the completion of the enlargements and costs associated with such activities cannot be recouped if construction were not permitted to proceed; and

WHEREAS, specifically, the applicant states that the previously existing front porch has been removed, in anticipation of the construction of the front enlargement, and cannot be replaced without considerable expense; and

WHEREAS, the applicant states that, even without such additional expenses, the owner is contractually obligated to \$111,897.60, the entire total cost of the project; and

WHEREAS, the Board agrees that the owner would suffer serious economic harm if the enlargements were not permitted to be completed; and

WHEREAS, as to substantial construction, the applicant states that work on the proposed enlargement subsequent to the issuance of the Permit involved the following: (1) the removal of the front porch; (2) 100 percent of the excavation and footings at front and rear; (3) 100 percent of the foundations (including foundation walls); (4) the framing of the rear enlargement; and (5) 30 percent of the following: exterior stairs, interior walls, windows, electrical, heating, flooring, and air-conditioning; and

WHEREAS, in support of this statement the applicant has submitted the following evidence: affidavits from the

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architect and contractor as to the amount of work completed, photographs of the site, and invoices for the noted work and materials; and

WHEREAS, on its site visit, the Board observed the completed work described above; and

WHEREAS, the Board has reviewed this documentation and agrees that it establishes that the afore-mentioned work was completed prior to the Enactment Date; and

WHEREAS, the Board concludes that based upon actual work performed under the Permit and its degree of complexity with relationship to the overall project, that substantial construction has been completed sufficient to satisfy the general standards under the common law; and

WHEREAS, at hearing, the Board asked the applicant if it would be viable to proceed with the enlargement at the rear of the home, but eliminate the enlargement at the front; and

WHEREAS, the applicant responded that the two enlargements were integrated into the existing home and that the layout of the entire first floor was designed and would be modified to accommodate both; and

WHEREAS, additionally, the applicant represents that it would not have been feasible to embark on plans for only the rear enlargement and that it would not have done so without plans to also complete the front enlargement; and

WHEREAS, the Board accepts that due to the re-design of the entire first floor, it was only feasible for the applicant to construct enlargements at both the front and the rear of the home; and

WHEREAS, as to substantial expenditures, the applicant states that the expenditures made totaled \$38,397.60 of the total project cost of \$111,897.60 (34 percent); and

WHEREAS, the applicant states that the owner has made irrevocable commitments to the remaining \$73,500.00; and

WHEREAS, in support of this claim, the applicant has submitted invoices, cancelled checks, and accounting statements, which the Board has reviewed and finds credible; and

WHEREAS, based upon the above, the Board finds that the degree of work done and expenditures incurred are sufficient to meet the common law vesting standard; and

WHEREAS, additionally, the Board finds that the work performed up to April 5, 2006 was complex construction that was necessary for the proposed enlargement and that it resulted in tangible change to the existing building; and

WHEREAS, accordingly, the owner has met the standard for vested rights under the common law and is entitled to the requested extension of the Permit and all other related permits for construction of the proposed enlargements.

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights and requesting a reinstatement of Alteration Permit No. 302058840, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed enlargement for one term of one year from the date of this resolution, to

expire on October 31, 2007.

Adopted by the Board of Standards and Appeals, October 31, 2006.

120-06-A

APPLICANT – Eric Palatnik, P.C., for Harry & Brigitte Schalchter, owners.

SUBJECT – Application June 12, 2006 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R6 zoning district. Current zoning district is R4-1

PREMISES AFFECTED – 1427 East 17th Street, between Avenue N and Avenue O, Block 6755, Lot 91, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Appeal granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an appeal requesting a Board determination that the owner of the premises has obtained a vested right under the common law to complete an enlargement at both the front and rear of an existing two-story and attic single-family dwelling; and

WHEREAS, a public hearing was held on this application on September 12, 2006 after due notice by publication in *The City Record*, with continued hearings on October 17, 2006 and then to decision on October 31, 2006; and

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

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

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

WHEREAS, the subject premises is a 3,000 sq. ft. site on the east side of East 17th Street, between Avenue N and Avenue O; and

WHEREAS, the premises is improved upon with a two-story and attic single-family home; a one-story enlargement is proposed for the front and rear of the existing building; and

WHEREAS, specifically, the applicant proposes to construct a 9'-4½" deep front extension for the width of the existing home, which includes a new entrance; the enlargement at the rear includes a 5'-0" deep extension abutting a 6'-0" deep greenhouse; and

WHEREAS, the premises is currently located within an R4-1 zoning district, but was formerly located within an R6 zoning district; and

WHEREAS, the proposed enlargement complies with the former R6 zoning district parameters as to floor area and front

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yard requirements; and

WHEREAS, however, on April 5, 2006 (hereinafter, the "Enactment Date"), the City Council voted to adopt the Midwood Rezoning; and

WHEREAS, because the site is now within an R4-1 district, the proposed enlargement creates non-compliance as to floor area and front yard and therefore is not permitted; and

WHEREAS, specifically, the floor area is proposed to be increased from 2,692.5 sq. ft. to 3,039 sq. ft. (2,700 sq. ft., including an attic bonus, is the maximum permitted in the R4-1 district); and

WHEREAS, as to the required front yard, the proposed enlargement provides an 8'-5" front yard (a ten-foot front yard is required in the R4-1 zoning district); and

WHEREAS, the applicant requests that the Board find that based upon the amount of financial expenditures, including irrevocable commitments, and the amount of work completed, the owner has a vested right to continue construction and finish the proposed enlargement; and

WHEREAS, the applicant is requesting relief under the common law and constitutional theory of vested rights after it failed to obtain a reconsideration from DOB to allow work to continue; during the time that a reconsideration was sought, the statutory time limit to seek relief under ZR § 11-311 expired; and

WHEREAS, as a threshold matter in determining this appeal, the Board must find that the completed work was conducted pursuant to valid permits; and

WHEREAS, on January 13, 2006, under DOB Application No. (Alt. 2) 302058840, DOB issued a permit (the "Permit") to the owner to enlarge the existing home as discussed above; and

WHEREAS, on April 6, 2006, because of the zoning change, DOB issued a stop-work order on the Permit; and

WHEREAS, on September 6, 2006, DOB sent the applicant a ten-day notice to revoke approvals and permits based on objections raised by a special audit; and

WHEREAS, the applicant subsequently resolved all outstanding objections with DOB; and

WHEREAS, since the Permit is valid, the Board may properly consider all work performed between the time of its issuance and the Enactment Date; and

WHEREAS, assuming that a valid permit has been issued and that work proceeded under it, the Board notes that a common law vested right to continue construction generally exists where the owner has undertaken substantial construction and made substantial expenditures prior to the effective date of a zoning change, and where serious loss will result if the owner is denied the right to proceed under the prior zoning, and; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10 (2d Dept. 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance."; and

WHEREAS, as discussed by the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, as to enlargements specifically, in Bayswater Health Related Facility v. Karagheuzoff, 37 NY2d. 408, the Court of Appeals held that a vested right had been acquired for a conversion of existing structures to nursing homes because the "main building had already been gutted, its roof and sidewalks opened and exposed to the elements ..."; and

WHEREAS, the Board notes that from these cases, it is apparent that such factors as tangible physical change, including removing portions of the existing building and exposing it to the elements, are relevant to a finding of completion of substantial construction; and

WHEREAS, further, the Board agrees that, under the common law, a completion of substantial construction finding will depend, in part, upon a showing of actual construction work resulting in some tangible change to the structure being altered that is integral to the proposed work; and

WHEREAS, in its written statements and testimony, the applicant represents that: (1) the owner would suffer serious economic harm if unable to complete the enlargement; (2) as of the Enactment Date, substantial construction had been completed; and (3) substantial expenditures were made after the issuance of the Permit; and

WHEREAS, as to serious economic harm, the applicant represents that considerable planning and construction has been expended towards the completion of the enlargements and costs associated with such activities cannot be recouped if construction were not permitted to proceed; and

WHEREAS, specifically, the applicant states that the previously existing front porch has been removed, in anticipation of the construction of the front enlargement, and cannot be replaced without considerable expense; and

WHEREAS, the applicant states that, even without such additional expenses, the owner is contractually obligated to \$111,897.60, the entire total cost of the project; and

WHEREAS, the Board agrees that the owner would suffer serious economic harm if the enlargements were not permitted to be completed; and

WHEREAS, as to substantial construction, the applicant states that work on the proposed enlargement subsequent to the issuance of the Permit involved the following: (1) the removal of the front porch; (2) 100 percent of the excavation and footings at front and rear; (3) 100 percent of the foundations (including foundation walls); (4) the framing of the rear enlargement; and (5) 30 percent of the following: exterior stairs, interior walls, windows, electrical, heating, flooring, and air-conditioning; and

WHEREAS, in support of this statement the applicant has submitted the following evidence: affidavits from the architect and contractor as to the amount of work completed, photographs of the site, and invoices for the noted work and materials; and

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WHEREAS, on its site visit, the Board observed the completed work described above; and

WHEREAS, the Board has reviewed this documentation and agrees that it establishes that the afore-mentioned work was completed prior to the Enactment Date; and

WHEREAS, the Board concludes that based upon actual work performed under the Permit and its degree of complexity with relationship to the overall project, that substantial construction has been completed sufficient to satisfy the general standards under the common law; and

WHEREAS, at hearing, the Board asked the applicant if it would be viable to proceed with the enlargement at the rear of the home, but eliminate the enlargement at the front; and

WHEREAS, the applicant responded that the two enlargements were integrated into the existing home and that the layout of the entire first floor was designed and would be modified to accommodate both; and

WHEREAS, additionally, the applicant represents that it would not have been feasible to embark on plans for only the rear enlargement and that it would not have done so without plans to also complete the front enlargement; and

WHEREAS, the Board accepts that due to the re-design of the entire first floor, it was only feasible for the applicant to construct enlargements at both the front and the rear of the home; and

WHEREAS, as to substantial expenditures, the applicant states that the expenditures made totaled \$38,397.60 of the total project cost of \$111,897.60 (34 percent); and

WHEREAS, the applicant states that the owner has made irrevocable commitments to the remaining \$73,500.00; and

WHEREAS, in support of this claim, the applicant has submitted invoices, cancelled checks, and accounting statements, which the Board has reviewed and finds credible; and

WHEREAS, based upon the above, the Board finds that the degree of work done and expenditures incurred are sufficient to meet the common law vesting standard; and

WHEREAS, additionally, the Board finds that the work performed up to April 5, 2006 was complex construction that was necessary for the proposed enlargement and that it resulted in tangible change to the existing building; and

WHEREAS, accordingly, the owner has met the standard for vested rights under the common law and is entitled to the requested extension of the Permit and all other related permits for construction of the proposed enlargements.

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights and requesting a reinstatement of Alteration Permit No. 302058840, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed enlargement for one term of one year from the date of this resolution, to expire on October 31, 2007.

Adopted by the Board of Standards and Appeals, October 31, 2006.

84-06-BZY

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

SUBJECT – Application May 4, 2006 – Proposed extension of time to complete construction minor development pursuant to ZR §11-331 for a four story mixed use building. Prior zoning was R6 and new zoning district is R4-1 as of April 5, 2006.

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

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik, Craig Eaton, Esq.

For Opposition: Mark J. Kurzman, Joel Cohen, Margie Nussbaum, Susan Geen, Rita Francis, Maxine Writsky, Yosef Mitnick, Alan Francis, Bracha Cohen and Murray Yarhusch.

For Administration: Angelina Martinez, Department of Buildings.

ACTION OF THE BOARD – Laid over to December 12, 2006, at 10 A.M., for continued hearing.

153-06-A

APPLICANT – Sheldon Lobel, P.C., for Paul Ullman, owner.

SUBJECT – Application July 12, 2006 - Appeal challenging the Department of Buildings interpretation that Quality Housing Bulk regulations may be utilized by a single-family residence seeking to enlarge in a non-contextual zoning district.

PREMISES AFFECTED – 159 West 12th Street, Seventh Avenue and Avenue of the Americas, Block 608, Lot 69, Borough of Manhattan.

COMMUNITY BOARD #14M

APPEARANCES –

For Applicant: Irv Minkin, Richard J. Davis, Sheldon and Josh Rinesmith.

For Opposition: Shelly Friedman.

For Administration: Janine Gaylard, Department of Buildings.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

ACTION OF THE BOARD – Laid over to January 9, 2007, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director

Adjourned: 1:00 P.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, OCTOBER 31, 2006
1:30 P.M.**

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

ZONING CALENDAR

393-04-BZ

APPLICANT – Jeffrey Chester of Einbinder & Dunn, for Edythe Kurtzberg, owner; Lucille Roberts Health Clubs, Incorporated, lessee.

SUBJECT – Application December 16, 2006 – Variance pursuant to Z.R. §72-21 – Legalization of a physical culture establishment (Lucille Roberts) located within a C1-2 (R6B) Zoning district.

PREMISES AFFECTED – 41-19 Bell Boulevard, East side of Bell Boulevard, 75' north of 42nd Avenue. Block 6290, Lot 5, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley Brown and Commissioner Hinkson....4
Negative:.....0

Adopted by the Board of Standards and Appeals, October 31, 2006.

33-05-BZ

APPLICANT– Sheldon Lobel, P.C., for Yeshiva Tiferes Yisroel, owner.

SUBJECT – Application February 24, 2005 – Variance pursuant to Z.R. 72-21 to permit the construction of a non-complying school (Yeshiva Tiferes Yisrael). The proposed Yeshiva will be constructed on lots 74, 76, 77, 78 and 79 and will be integrated with the existing Yeshiva facing East 35th Street which was approved in a prior BSA grant on lots 11, 13, 15, and 16. The existing and proposed Yeshiva and their associated lots will be treated as one zoning lot. The subject zoning lot is located in an R5 zoning district. The requested waivers and the associated Z.R. sections are as follows: Floor Area Ratio and Lot Coverage (24-11); Side Yard (24-35); Rear Yard (24-36); Sky Exposure Plane (24-521); and Front Wall Height (24-551).

PREMISES AFFECTED – 1126/30/32/36/40 East 36th Street, west side of East 36th Street, between Avenues K and L, Block 7635, Lots 74, 76, 77, 78, 79, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated October 24, 2006, acting on Department of Buildings Application No. 301874461, reads, in pertinent part:

- “1. Proposed building exceeds the maximum floor area and FAR permitted by ZR 24-11.
2. Proposed building exceeds the maximum lot coverage permitted by ZR 24-11.
3. Proposed buildings exceeds the maximum front wall height permitted by ZR 24-521.
4. Proposed building does not meet the minimum side yard requirements of ZR 24-35.
5. Proposed building does not meet the minimum rear yard requirements of ZR 24-36.
6. Proposed building violates front setback and sky exposure plane as required by ZR 24-521.
7. Proposed building does not meet the minimum side setback requirements of ZR 24-551.
8. Proposed building does not meet the rear yard equivalent requirements for a through-lot as per ZR 24-382”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a zoning lot within an R5 zoning district, a four-story addition to an existing Use Group 3 religious school, to accommodate additional educational space and accessory dormitory facilities, which violates zoning provisions related to floor area and Floor Area Ratio (FAR), lot coverage, front wall height, side yard, rear yard, front setback and sky exposure plane, side setback, and rear yard equivalent, contrary to ZR §§ 24-11, 24-521, 24-35, 24-36, 24-551 & 24-382; and

WHEREAS, the Board notes that when the case was initially filed, the applicant provided a zoning analysis, plans and statement of facts and findings that only related to the proposed addition (the “New Addition”); and

WHEREAS, as discussed more fully below, the New Addition will be connected to the existing religious school building (the “Existing Building”) and is part of the same zoning lot; and

WHEREAS, further, two of the subject tax lots had not yet been acquired and made part of the larger zoning lot (lots 74 and 76); and

WHEREAS, the applicant subsequently revised its submission to incorporate the two additional tax lots, and to reflect a zoning analysis, plans and statement (and DOB objection sheet) that addresses the zoning lot in its entirety; and

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

WHEREAS, Community Board 18, Brooklyn,

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recommends approval of this application; and

WHEREAS, this application was brought on behalf of Yeshiva Tiferes Yisroel (the “Yeshiva”), a not for profit religious educational institution; and

WHEREAS, the subject zoning lot is a through lot, consisting of lots 74, 76, 77, 78 and 79, fronting on East 36th Street (the “New Portion”), and lots 11, 13, 15, & 16, fronting on East 35th Street (the “Old Portion”); and

WHEREAS, the Existing Building occupies the Old Portion, and various dwellings occupy the New Portion; the dwellings are proposed to be demolished; and

WHEREAS, the applicant states that the New Portion has approximately 14,000 sq. ft. of lot area, and the Old Portion has approximately 12,000 sq. ft. of lot area; and

WHEREAS, the Old Portion is subject to a prior Board variance, made under BSA Cal. No. 127-93-BZ (the “Prior Grant”), and granted on October 18, 1994; and

WHEREAS, the Prior Grant permitted the enlargement of an existing school building into the Existing Building, which did not comply with zoning requirements for floor area, side yard, rear yard, height at the front yard line, front and side sky exposure plane, and lot coverage; and

WHEREAS, specifically, the Prior Grant permitted a building with the following parameters: a community facility floor area of 29,587 sq. ft., a community facility FAR of 2.47, lot coverage of 67.25%, a wall height of 56’-6”, a total building height of 60’-0”, a front yard of 10 ft., one side yard of 10 ft., a complying 30 ft. rear yard on only 62% of the rear lot line, no front or side setbacks, and no sky exposure plane compliance for 52% of the building frontage; and

WHEREAS, the Prior Grant was predicated on the programmatic needs of the Yeshiva as such existed then; and

WHEREAS, the Yeshiva subsequently acquired the lots that constitute the New Portion, and now seeks to construct the New Addition thereupon; and

WHEREAS, the applicant states that the New Addition will be partially integrated with the Existing Building; and

WHEREAS, specifically, the applicant states that the students and staff will continue to enter through the entrance on East 35th Street, and that the New Addition and the Existing Building will be joined at the cellar level; and

WHEREAS, the applicant states that New Addition encompasses the following elements: cellar – a new addition to the existing dining room, a new storage area, three new classrooms, an expanded study hall, and a new bathroom; first floor – three classrooms, two offices, a library, lobby, book storage room, computer room, and a small caretakers apartment; second floor – nine classrooms, three storage spaces, four offices, a teacher’s lounge, and a bathroom; third floor – nine dormitory rooms, bathroom and showers, and a gymnasium; fourth floor – nine dormitory rooms, and bathroom and showers; and

WHEREAS, the dorm rooms and the caretaker apartment are considered Use Group 3 accessory uses, and therefore are permitted; and

WHEREAS, the New Addition, when considered in

conjunction with the Existing Building, results in the following non-compliances over the entire zoning lot: a community facility floor area of 61,118 sq. ft. (52,000 sq. ft. is the maximum permitted); a community facility FAR of 2.35 (2.0 is the maximum permitted); a lot coverage of 62% (55% is the maximum permitted); a wall height of 56’-6” for the Existing Building and a wall height of 51’-0” for the New Addition; a rear yard of 30 ft. along 62 percent of the rear lot line of the Old Portion (30 ft. is required along the entirety of the rear lot line) and partial compliance with the rear yard equivalent for the New Portion; no front setback for the Existing Building (a setback is required at 35 ft. above the front yard line and a front setback for 48% of the New Addition’s frontage (a setback along 100 percent of the frontage is required); no sky exposure compliance for the Existing Building and partial compliance for the New Addition; and no side setback for the Existing Building (a setback of one-half the height above yard level is required); and

WHEREAS, the Board notes that due to the addition of the New Portion to the zoning lot, the degree of certain of the waivers made during the Prior Grant actually decrease; and

WHEREAS, for instance, the Prior Grant allowed a community facility FAR of 2.47, while the proposed community facility FAR is now 2.35; and

WHEREAS, the applicant argues that the waivers are necessary to create a building with sufficient floor plates and floor to floor heights sufficient to meet the programmatic needs of the Yeshiva; and

WHEREAS, the applicant notes that the Yeshiva currently has three divisions (Kindergarten through 8th grade; high school; and post-high school), which need to be housed in the same building in order to facilitate a cohesive and comprehensive educational experience and to minimize administrative and facility-related expense; and

WHEREAS, the applicant notes that at the time the Prior Grant was made, the elementary school had an enrollment of 400, the high school had an enrollment of 100, and the post-high school program was very small; and

WHEREAS, the applicant reports that the elementary school now has an enrollment of 600, the high school has an enrollment of 120, and the post-high school program has an enrollment of 20; and

WHEREAS, the applicant also reports that total enrollment is expected to increase by approximately 90 students in the next several years; and

WHEREAS, the applicant contends that the Existing Building’s facilities are inadequate and do not meet the stated programmatic needs of the Yeshiva; and

WHEREAS, specifically, the applicant reports that the following spaces are over-crowded and are not meeting the needs of the Yeshiva: (1) the kitchen and dining room; (2) the classrooms and educational spaces; (3) the office and staff space; and (4) the recreational space; and

WHEREAS, the applicant also commented upon the need for dormitory space for the post-high school program students; and

WHEREAS, as to the kitchen and dining room, the

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applicant states that the kitchen's total square footage (760 sq. ft.) does not allow for sufficient food preparation space, and the dining room is so undersized that three lunchtime shifts are necessary; and

WHEREAS, the applicant also notes that lecture/breakfasts for the older students are compromised by the need to share the dining room with younger and more disruptive students; and

WHEREAS, finally, the applicant notes that the proposed expanded dining room (with a capacity of 260 additional people) and kitchen (at 3,540 sq. ft.) would alleviate these issues; and

WHEREAS, as to the classrooms and educational spaces, the applicant notes that with only 28 classrooms for the existing enrollment within the Existing Building, the Yeshiva has been forced to use the library, the women's prayer balcony and some storage rooms for classroom space, and has rented off-site space in a nearby synagogue; and

WHEREAS, the Yeshiva also located classes in a house on lot 17; and

WHEREAS, the applicant notes that the New Addition will alleviate this overcrowding through the provision of 15 new classrooms, as well as bathrooms, teacher lounge, a library and a computer center, and eliminate the need to rent off-site space; and

WHEREAS, the New Addition will also more properly separate the upper and lower schools; and

WHEREAS, as to office and staff space, the applicant states that the Existing Building has only 2,590 sq. ft. of space devoted to office/staff use, which at 100 sq. ft. per person, would accommodate about 26 persons; and

WHEREAS, however, the applicant notes that the number of staff has increased given the increase in enrollment, such that this amount of space is grossly inadequate; and

WHEREAS, the applicant states that the New Addition will add an office and faculty lounge on the first floor, and four offices and a teachers' lounge of the second floor; and

WHEREAS, the applicant states that these new spaces will alleviate the staff and office over-crowding that currently exists; and

WHEREAS, as to recreational space, the applicant notes that the total square footage of the interior recreational space is 3,100, and the total square footage of the exterior play space is 10,100, all of which is inadequate for the current enrollment of the Yeshiva; and

WHEREAS, the applicant notes that the New Addition includes a larger gymnasium (3,813 sq. ft.), a new roof deck of 4,275 sq. ft., and a playground of 2,958 sq. ft.; and

WHEREAS, again, the applicant contends that these new recreational spaces will address the current deficiencies; and

WHEREAS, finally, as to the dormitory facility, the applicant explains that the post-high school program students are engaged in an extremely rigorous educational experience, which necessitates that they reside as close to the base of study as possible; and

WHEREAS, the applicant also states that the dormitory facility will allow the Yeshiva to attract high caliber students

and remain competitive with other similar educational institutions; and

WHEREAS, further, the proposed 18 dormitory rooms will allow for an anticipated increase in enrollment in the post-high school program, which will result from matriculation from the high school and from outside recruitment; and

WHEREAS, the Board credits the applicant's statements as to the Yeshiva's programmatic needs, and understands that the proposed facilities could not be accommodated in an as of right envelope; and

WHEREAS, the Board also acknowledges that the Yeshiva, as a religious educational institution, is entitled to significant deference under the case 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, in addition to these programmatic needs, the applicant notes that the New Portion is the only developable parcel wider than 50 ft. in close proximity to the Yeshiva, making it a unique parcel of land in the neighborhood and unique in relation to the Yeshiva's needs; and

WHEREAS, based upon the above, the Board finds that the adjacency of the New Portion to the Old Portion, when considered in conjunction with the programmatic needs of the Yeshiva, 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 Yeshiva is a not-for-profit organization and the proposed development will be in furtherance of its educational mission; and

WHEREAS, the applicant represents that the New Addition 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 notes that the variances requested in this application are largely the same as those requested in the Prior Grant, and argues that the Board's prior determination should pertain to the New Addition; and

WHEREAS, however, the Board notes that the New Addition fronts on East 36th Street, which is a 60 ft. narrow street and has a different context than East 36th Street, which is an 80 ft. wide street; and

WHEREAS, accordingly, an independent evaluation of the impact of the New Addition is required; and

WHEREAS, the Board notes that the New Portion abuts existing residential dwellings on its south side and on its north side, as well as across the street to the east; and

WHEREAS, as to the dwellings on the south side, the Board observes that the rear yards of these dwellings abut the common lot line, and that there are garages in the rear yards; and

WHEREAS, further, an eight feet side yard is provided along this lot line; and

WHEREAS, thus, the Board determines that there will be no appreciable impact from the New Addition on these homes; and

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WHEREAS, likewise, on the north side, an eight feet side yard will be provided between the New Addition and the adjacent dwelling; and

WHEREAS, as to the frontage on East 36th Street, the Board observes that the applicant reduced the proposed initial setback height to 44 feet (from the initially proposed 46 feet), and has reduced the overall height to 54 feet (from the initially proposed 56 feet); and

WHEREAS, the applicant contends, and the Board agrees, that the heights cannot be further reduced because of the need to maintain reasonable floor to ceiling heights for the proposed dormitory spaces; and

WHEREAS, further, a ten ft. front yard is provided along approximately 64 ft. of the frontage, and an approximately 43 ft. deep play area extends along the remainder of the frontage; and

WHEREAS, in sum, the Board agrees that the requested waivers will not change the character of the neighborhood or impact adjacent uses; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the proximity of the New Portion to the Existing Building and the programmatic needs of Yeshiva; and

WHEREAS, additionally, the Board finds that this proposal is the minimum necessary to afford relief, since the Proposed Addition is designed to address the Yeshiva's present and anticipated programmatic needs; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 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. 05BSA094K dated May 23, 2006; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a zoning lot within an R5 zoning district, a four-story addition to an existing Use Group 3 religious school, to accommodate additional educational space and accessory dormitory facilities, which violates zoning provisions related to floor area and Floor Area Ratio, lot coverage, front wall height, side yard, rear yard, front setback and sky exposure plane, side setback, and rear yard equivalent, contrary to ZR §§ 24-11, 24-521, 24-35, 24-36, 24-551 & 24-382; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 30, 2006"- (12) sheets; and *on further condition*:

THAT all bulk parameters, including yards, coverage, and setbacks, shall be as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, October 31, 2006.

313-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Douglas Brenner and Ian Kinniburgh, owners.

SUBJECT – Application October 20, 2005 – under Z.R. §72-21 to allow a proposed enlargement of an existing residential building located in C6-1 and R7-2 districts to violate applicable rear yard regulations; contrary to Section 23-47. PREMISES AFFECTED – 26 East 2nd Street, Block 458, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4
Negative:.....0

Adopted by the Board of Standards and Appeals, October 31, 2006.

106-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Mendel Bobker,

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owner.

SUBJECT – Application May 23, 2006 – Pursuant to ZR §73-622 Special Permit to allow the enlargement of a two-family residence which exceeds the allowable floor area ratio per ZR 23-141, side yards less than the minimum per ZR 23-461 and proposes a rear yard less than the minimum required per ZR 23-47. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1436 East 28th Street, west side of East 28th Street, 280 between Avenue N and Kings Highway, Block 7681, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 28, 2006, acting on Department of Buildings Application No. 302073379, reads in pertinent part:

“The proposed enlargement of the existing two-family residence in an R2 district:

1. Causes an increase in the floor area by exceeding the maximum allowable floor area, thereby being contrary to Section 23-141(a) of the Zoning Resolution.
2. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the required 30’-0”.
3. Proposed plans are contrary to ZR 23-461(a) in that the proposed side yards are less than the minimum required, of 5’-0” minimum each and a total minimum of 13’-0”.”; and

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

WHEREAS, a public hearing was held on this application on September 12, 2006, after due notice by publication in *The City Record*, with continued hearings on October 24, 2006, and then to decision on October 24, 2006; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application on the condition that there be a distance of five feet between the house and the garage; and

WHEREAS, certain neighbors provided testimony in opposition to the proposal, citing concerns about the neighborhood character for larger rear yards; and

WHEREAS, the subject lot is located on the west side of 28th Street, between Avenue N and Kings Highway; and

WHEREAS, the subject lot has a total lot area of 3,000 sq. ft., and is occupied by a 2,060 sq. ft. (0.69 FAR) two-family home; and

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

WHEREAS, the proposed enlargement will be two stories with a cellar and will be located at the rear of the existing home; and

WHEREAS, the applicant seeks an increase in the floor area from 2,060 sq. ft. (0.69 FAR) to 2,552 sq. ft. (0.85 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to maintain the existing non-complying front yard of 14’-11” (15 feet is the minimum required), and the existing non-complying side yards of 3’-5” and 6’-0” (side yards of 13’-0” are required with a minimum width of 5’-0” for one); and

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

WHEREAS, the enlargement of the building into the rear yard is not located within 20’-0” of the rear lot line; and

WHEREAS, the wall height and total height, which comply with zoning district regulations, will not change; and

WHEREAS, at hearing, the Board expressed concern that there was not sufficient space between the rear of the enlarged home and the garage; and

WHEREAS, in response, the applicant revised the plans to provide for a minimum of three feet between the rear of the home and the existing garage; and

WHEREAS, the applicant states that a three ft. portion of the garage, closest to the rear of the home would be demolished in order to provide the additional space; and

WHEREAS, the Board notes that certain neighbors expressed concern about the effect any alteration to the existing garage might have on the adjoining garage on the adjacent property; and

WHEREAS, at hearing, the Board asked the applicant about how any potential impact on the garage was being addressed; and

WHEREAS, the applicant provided a statement, stamped and sealed by a professional engineer, stating that precautions would be taken during the partial demolition of the subject garage in order to protect the party wall of the adjoining garage and adjacent property; and

WHEREAS, as to neighborhood context, the applicant submitted a streetscape indicating the heights of five homes on the subject block, indicating that the neighboring homes and the subject home, as proposed, all have a total height of 25’-9”;

WHEREAS, the Board notes that the FAR increase is comparable to other FAR increases that the Board has

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granted through the subject special permit in the subject zoning district; and

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

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a two-family dwelling, which does not comply with the zoning requirements for floor area, rear yard, and side yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received October 26, 2006"-(6) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

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

THAT the following shall be the bulk parameters of the building and the yard dimensions: a total floor area of 2,552 sq. ft. (0.85 FAR), a wall height of 21'-9", a total height of 25'-9", a front yard of 14'-11", one side yard of 3'-5", one side yard of 6'-0", and a rear yard of 20'-0", all as illustrated on the BSA-approved plans;

THAT there shall be a minimum distance of three feet between the house and the garage;

THAT the garage shall be as approved by DOB;

THAT any porches shall be as approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, October 31, 2006.

298-05-BZ

APPLICANT – Rampulla Associates Architects, for Pasquale Pappalardo, owner.

SUBJECT – Application October 4, 2005 – Variance pursuant to Z.R. Section 72-21 to construct a new two-story office building (Use Group 6) with accessory parking for 39 cars. The premises is located in an R3X zoning district. The site is currently vacant and contains an abandoned greenhouse building from when the site was used as a garden center. The proposal is contrary to the district use regulations pursuant to Z.R. Section 22-00.

PREMISES AFFECTED – 1390 Richmond Avenue, bound by Richmond Avenue, Lamberts Lane and Globe Avenue, Block 1612, Lot 2, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Phil Rampulla and James Heineman.

For Opposition: B.C. Richard A. Posavitz and D.C. William Tanzosh; Fire Department.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4
Negative:.....0

ACTION OF THE BOARD – Laid over to November 21, 2006, at 1:30 P.M., for decision, hearing closed.

49-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Brigitte Zabbatino, owner.

SUBJECT – Application March 17, 2006 – Variance under §72-21. In the Flatlands section of Brooklyn, and in a C1-2/R3-2 district on a lot consisting of 5,181 SF, permission sought to permit the construction of a three-story commercial building, with ground floor retail and office space on the second and third floors. The development is contrary to FAR, height and setback, and minimum parking. Parking for 12 vehicles in the cellar is proposed. The existing one-story structure consisting of approximately 2,600 SF will be demolished.

PREMISES AFFECTED – 2041 Flatbush Avenue, at the intersection of Flatbush Avenue and the eastern side of Boughman Place. Block 7868, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to November 21, 2006, at 1:30 P.M., for an adjournment.

50-06-BZ

APPLICANT – Jeffrey A. Chester, Esq., for 461 Carol Strait, LLC, owner.

SUBJECT – Application March 20, 2006 – Use Variance pursuant to Z.R. §72-21 to permit the conversion and

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expansion of a commercial/industrial building to a two-family residence. The premise is located in a M1-2 zoning district. The waiver requested relates to the use regulations pursuant to Z.R. §42-00. The subject site was previously used by Linda Tool Co., a custom tool and dye manufacturer which occupied the premises for several decades.

PREMISES AFFECTED – 461 Carroll Street, between Nevins Street and Third Avenue, Block 447, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Jeffrey Chester.

ACTION OF THE BOARD – Laid over to December 5, 2006, at 1:30 P.M., for continued hearing.

55-06-BZ

APPLICANT – Rampulla Associates Architects, for Nadine Street, LLC, owner.

SUBJECT – Application March 24, 2006 – Zoning variance pursuant to ZR Section 72-21 to allow a proposed office building in an R3-2/C1-1 (NA-1) district to violate applicable rear yard regulations; contrary to ZR Sections 33-26 and 33-23. Special Permit is also proposed pursuant to ZR Section 73-44 to allow reduction in required accessory parking spaces.

PREMISES AFFECTED – 31 Nadine Street, St. Andrews Road and Richmond Road, Block 2242, Lot (Tentative 92, 93, 94), Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Phil Rampulla.

ACTION OF THE BOARD – Laid over to December 5, 2006, at 1:30 P.M., for continued hearing.

131-05-BZ

APPLICANT – Law Office of Vincent L. Petraro, for Delco Properties, LLC, owner.

SUBJECT – Application Variance application under Z.R. Section 72-21 to permit a five-story retail/banquet facility/office building of 112,137 square feet and up to 276 attended parking spaces on the two cellar levels. The site is located in a C4-3 zoning district. The proposal is contrary to Z.R. Sections 33-122, 33-432, 36-21, 36-62, and 32-21. The variance waivers requested relate to floor area, front wall height, number of parking spaces, number of loading berths, and the distance from a residence district. There are two existing commercial buildings on the site which will be demolished as part of the proposed action.

PREMISES AFFECTED – 72-01/72-11 Roosevelt Avenue, 37-61/69 72nd Street and 72-18 Broadway, corner of 72nd Street and Broadway, Block 1283, Lot 72, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Steven Simicich

ACTION OF THE BOARD – Laid over to January 9, 2006, at 1:30 P.M., for continued hearing.

67-06-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Jhong Ulk Kim, owner; Walgreens, lessee.

SUBJECT – Application April 14, 2006 – Variance pursuant to Z.R. 72-21 to permit the proposed 8,847 square foot drugstore without the number of parking spaces required in a C2-1 zoning district (59 spaces) and to use the R2 portion of the zoning lot for accessory required parking. The proposal is requesting waivers of ZR 22-00 and 36-21. The proposed number of parking spaces pursuant to a waiver of ZR 36-21 will be 34. The site is currently occupied by a 5,594 square foot diner with accessory parking for 37 cars.

PREMISES AFFECTED – 2270 Clove Road, corner of Clove Road and Woodlawn Avenue, Block 3209, Lots 149, 168, Richmond, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Joseph Morsellino, Marc Steinberg, Peter Martin, Sal Razano, John Pitera, Hiriam Rothkrug and Frank Trigglio.

For Opposition: Steven Matteo and Raymond M Farrell.

ACTION OF THE BOARD – Laid over to December 5, 2006, at 1:30 P.M., for continued hearing.

128-06-BZ

APPLICANT– Juan D. Reyes III, Esq., for Atlantic Walk, LLC, owner.

SUBJECT – Application June 16, Zoning variance pursuant to ZR § 72-21 to allow a nine-story residential building in an M1-5 district (Area B-2 of Special Tribeca Mixed Use District). Twenty Six (26) dwelling units and twenty six (26) parking spaces are proposed. The development would be contrary to use (Z.R. §111-104(d) and 42-10), height and setback (Z.R. § 43-43), and floor area ratio regulations (Z.R. §111-104(d) and 43-12). The number of parking spaces exceeds the maximum allowed is contrary to Z.R. § 13-12.

PREMISES AFFECTED – 415 Washington Street, west side of Washington Street, corner formed by Vestry Street and Washington Street, Block 218, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Juan Reyes, John Strauss, George Leventis, Jos Lombardi and Robert Pauls.

For Opposition: Jack Lester, Carole DeSaram, Richard Herschley, Mark Stern and A ?

ACTION OF THE BOARD – Laid over to December 12, 2006, at 1:30 P.M., for continued hearing.

159-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Shalom Kalnicki,

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owner.

SUBJECT – Application July 18, 2006 - Pursuant to ZR 72-21 for a variance to construct a single family home on a vacant lot which does not comply with the minimum lot width ZR 23-32 and less than the total required side yard, ZR 23-461. The premise is located in an R1-1 zoning district.

PREMISES AFFECTED – 4540 Palisade Avenue, east side of Palisade Avenue, 573' from 246th Street, Block 5923, Lot 231, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....
0

ACTION OF THE BOARD – Laid over to December 5, 2006, at 10 A.M., for decision, hearing closed.

226-06-BZ

APPLICANT– Eric Palatnik, P.C., for Bracha Weinstock, owner.

SUBJECT – Application September 5, 2006 – Pursuant to ZR 73-622 for the enlargement of a single family semi-detached residence. This application seeks to vary ZR 23-141(a) for open space and floor area; ZR 23-461(b) for less than the minimum side yard of 8 feet; ZR 23-47 for less than the minimum rear yard and ZR 23-631 for perimeter wall height.

The premise is located in an R3-2(HS) zoning district.

PREMISES AFFECTED – 1766 East 28th Street, between Avenue R and Quentin Road, Block 6810, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

Negative:.....
0

ACTION OF THE BOARD – Laid over to December 5, 2006, at 10 A.M., for decision, hearing closed.

234-06-BZ

APPLICANT– Law Office of Fredrick A. Becker, for Martin Gross and Batsheva Gross, owners.

SUBJECT – Application September 11, 2006 – Pursuant to ZR 73-622 for the enlargement of single family residence. This application seeks to vary ZR 23-141(a) for open space and floor area, ZR 23-47 for less than the minimum rear yard and ZR 23-461 for less than the minimum side yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1085 East 22nd Street, east side, between Avenue J and K, Block 7604, Lot 38, Borough of

Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to November 21, 2006, at 10 A.M., for continued hearing.

235-06-BZ

APPLICANT– Law Office of Fredrick A. Becker, for Susan Rosenberg, owner.

SUBJECT – Application September 11, 2006 – Pursuant to ZR 73-622 for the enlargement of a single family residence. This application seeks to vary ZR 23-141 for open space and floor area and ZR 23-47 for less than the minimum rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 3155 Bedford Avenue, east side of Bedford Avenue, between Avenue J and Avenue K, Block 7607, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to November 21, 2006, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: 5:45 P.M.