
BULLETIN

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DIRECTORY

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116-07-A

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117-07-BZ

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118-07-BZ

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119-07-BZ

443 39th Street, Northern side of 39th Street, midblock between 4th Avenue and 5th Avenue., Block 705, Lot(s) 59, Borough of **Brooklyn, Community Board: 7**. Under §72-21 – To permit the conversion of a commercial building to a community facility use (UG4A).

120-07-BZ

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121-07-BZ

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122-07-BZ

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123-07-A

723R Driggs Avenue, South of the corner formed by the intersection of Driggs Avenue and South First Street., Block 2407, Lot(s) 141, Borough of **Brooklyn, Community Board: 1**. General City Law §36 – To permit the proposed development.

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

JUNE 12, 2007, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, June 12, 2007, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

102-95-BZIV

APPLICANT – The Law Office of Fredrick A. Becker, for The Argo Corporation as agent for 50 West 17 Realty Company, owner; Renegades Associate d/b/a Splash Bar, lessee.

SUBJECT – Application May 8, 2007 – Extension of Term of a special permit (§73-244) for a previously granted UG12 eating and drinking establishment with dancing (Splash Bar) for a term of three years which expired on March 5, 2007 in a C6-4A zoning district.

PREMISES AFFECTED – 50 West 17th Street, south side of West 17th Street, between 5th Avenue and 6th Avenue, Block 818, Lot 78, Borough of Manhattan.

COMMUNITY BOARD #5M

149-95-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for Brodcom West Development Company, owner; AGT Crunch, lessee.

SUBJECT – Application January 12, 2007 – Extension of term/Amendment for a physical culture establishment in a C4-7 zoning district, including legalization of change in operating entity and amend the hours of operations.

PREMISES AFFECTED – 35/75 West End Avenue, northwest corner of West End Avenue and West 61st Street, Block 1171, Lot 63, Borough of Manhattan.

COMMUNITY BOARD #7M

196-02-BZII

APPLICANT – Peter Hirshman, for Dynamic Youth Community, Inc., owner.

SUBJECT – Application April 24, 2007 – Extension of Time to Complete Construction and to obtain a Certificate of Occupancy to a previously granted variance (ZR 72-21) for the addition of sleeping accommodations of 16 beds to an existing community facility (Dynamic Youth Community Inc.) in C8-2 zoning district.

PREMISES AFFECTED – 1826-32 Coney Island Avenue, west side of Coney Island Avenue, 46' North of Avenue O, Block 6549, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD # 12BK

APPEALS CALENDAR

70-06-A & 71-06-A

APPLICANT – Eric Palatnik, P.C., for James Pullano, owner.

SUBJECT – Application April 19, 2006 – Proposed construction of a two- story, three family dwelling located within the bed of mapped street (Zev Place) is contrary to General City Law Section 35. Premises is located within an R3-2 Zoning District.

PREMISES AFFECTED – 4 & 8 Rockwell Avenue, west of the intersection of Virginia Avenue and Rockwell Avenue, Block 2998, Lots 1& 3 (tent), Borough of Staten Island.

COMMUNITY BOARD #1SI

219-06-A thru 225-06-A

APPLICANT – Rothkrug, Rothkrug and Spector, for J. Berardi & C. Saffren, owners.

SUBJECT – Application August 30, 2006 – Application to permit the construction of seven two story one family dwellings within the bed of a mapped street (128th Drive) contrary to Section 35 of the General City Law and not fronting on a legally mapped street contrary to Article 3, Section 36 of the General City Law. Premises is located within the R-2 Zoning District.

PREMISES AFFECTED – 241-10/16/22/28/15/21/25 128th Drive, Block 12886, Lots 1003, 1005, 1007, 1009, 1004, 1006, 1008, Borough of Queens.

COMMUNITY BOARD #13Q

JUNE 12, 2007, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, June 12, 2007, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

131-06-BZ

APPLICANT– Papa Architects, for Beach-Land Realty, owner.

SUBJECT – Application June 23, 2006 – Special Permit pursuant to Z.R. 73-36 to permit the legalization of an existing Physical Culture Establishment in a one-story portion of the existing building. The Premise is located in a C4-2 zoning district. The proposal is contrary to Z.R. 32-10.

PREMISES AFFECTED – 146 New Dorp Lane, a/k/a 146-154 New Dorp Lane, Block 4209, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2 SI

46-07-BZ

CALENDAR

APPLICANT– Sheldon Lobel, P.C., for Moishe Bergman, owner.

SUBJECT – Application February 15, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (23-141(a)); side yard (23-461) and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1328 East 23rd Street, located on the west side of East 23rd Street between Avenue M and Avenue N, Block 7658, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #14BK

99-07-BZ

APPLICANT - Eric Palatnik, P.C., for Orkin Arkadly, owner.

SUBJECT – Application April 24, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary floor area, open space and lot coverage (23-141) and rear yard (23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 170 Girard Street, north of Oriental Boulevard, south of Hampton Avenue, Block 8749, Lot 271, Borough of Brooklyn.

COMMUNITY BOARD#15BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MAY 15, 2007
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

878-62-BZ

APPLICANT – Sheldon Lobel, P.C., for Sutton House, Inc.,
owner.

SUBJECT – Application February 20, 2007 – Extension of
Term of a Variance for the use of transient parking for the
unused and surplus car spaces in an existing multiple
dwelling accessory garage which will expire on July 5,
2007; Extension of Time to obtain a Certificate of
Occupancy which expired on June 23, 1999 in an R10/C1-5
zoning district.

PREMISES AFFECTED – 399-423 East 52nd Street; 404-20
East 53rd Street, north side of 52nd Street, between 1st
Avenue and FDR Drive, Block 1364, Lot 5, Borough of
Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Ron Mandel.

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 application for a waiver of the
Rules of Practice and Procedure, a reopening, an extension
of time to obtain a certificate of occupancy, and an extension
of the term for a previously granted variance for transient
parking, which expires on July 5, 2007; and

WHEREAS, a public hearing was held on this
application on April 17, 2007 after due notice by publication
in *The City Record*, and then to decision on May 15, 2007;
and

WHEREAS, Community Board 6, Manhattan,
recommends approval of this application, however, requests
that the term be limited to five years; and

WHEREAS, the subject premises is located between First
Avenue and Franklin D. Roosevelt Drive, with frontage on
both East 52nd Street and East 53rd Street; and

WHEREAS, the site is located partially within an R10
(C1-5) zoning district and partially within an R10 zoning
district and is occupied by a 19-story with cellar and sub-cellar
residential building; and

WHEREAS, the transient parking is located in portions of
the cellar and sub-cellar; and

WHEREAS, on December 18, 1962, under the subject

calendar number, the Board granted a variance, pursuant to
Section 60(3) of the Multiple Dwelling Law, to permit the use
of transient parking for the unused and surplus car spaces in an
existing multiple dwelling accessory garage for a term of 15
years; and

WHEREAS, the grant was subsequently amended and
extended three times; and

WHEREAS, most recently, on June 23, 1998, the term
was extended for a period of ten years from the expiration of
the prior grant; and

WHEREAS, one of the conditions of the prior grant was
that a new certificate of occupancy be obtained by June 23,
1999; and

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

WHEREAS, additionally, the applicant now seeks an
additional ten year term; and

WHEREAS, based upon its review of the record, the
Board finds that the requested extension of time to obtain a
certificate of occupancy, and extension of term are appropriate,
with the 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, dated December 18, 1962, so that as
amended this portion of the resolution shall read: “to grant a
six-month extension of time to obtain a certificate of
occupancy, and a ten-year extension of term from the date of
this grant to expire on May 15, 2017; *on condition* that the use
and operation of the site shall substantially conform to BSA-
approved plans; and *on further condition*:

THAT this grant shall expire on May 15, 2017;

THAT there shall be a maximum total of 270 parking
spaces used for transient parking at the cellar and sub-cellar
levels at the subject premises;

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

THAT a sign providing the same information about
tenant recapture rights be maintained in a conspicuous place
within the garage;

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

THAT a new certificate of occupancy shall be obtained
by November 15, 2007;

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

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

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

(Alt. 127/1962)

Adopted by the Board of Standards and Appeals, May 15,

MINUTES

2007.

1059-84-BZ, Vol. II

APPLICANT – Cozen O’Connor by Barbara Hair, Esq., for BMS Realty Co., LLC, owner; Bally Total Fitness Corp., lessee.

SUBJECT – Application December 22, 2006 – Extension of term of a special permit for the operation of a physical culture establishment (PCE) in a C4-2 zoning district within the Special Ocean Parkway District.

PREMISES AFFECTED – 943/61 Kings Highway, a/k/a 2032 Coney Island Avenue, northwest corner of intersection Kings Highway and Coney Island Avenue, Block 6666, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Barbara Hair.

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 application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term for a previously granted special permit for a Physical Culture Establishment (PCE), which expired on May 7, 2005; and

WHEREAS, a public hearing was held on this application on April 17, 2007 after due notice by publication in *The City Record*, and then to decision on May 15, 2007; and

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

WHEREAS, the subject premises is located on the northwest corner of Kings Highway and Coney Island Avenue; and

WHEREAS, the site is located within a C4-2 zoning district, within the Special Ocean Parkway District, and is occupied by a two-story commercial building; and

WHEREAS, the PCE occupies 10,235 sq. ft. on the cellar level, 5,511 sq. ft. on the first floor, and 13,060 sq. ft. on the second floor; and

WHEREAS, the PCE is operated as Bally’s Total Fitness; and

WHEREAS, on May 7, 1985, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit the expansion of the existing PCE onto the second floor of the subject building; and

WHEREAS, the grant was subsequently extended once and amended once to permit the extension of the use onto the first floor; and

WHEREAS, the instant application seeks to extend the term of the variance for an additional ten years; and

WHEREAS, the applicant proposes several minor interior layout modifications, but no other changes to the prior grant; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term 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 May 7, 1985, so that as amended this portion of the resolution shall read: “to grant an extension of the variance for a term of ten years from the expiration of the last grant to expire on May 7, 2015; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received December 22, 2006” –(3) sheets; and; and *on further condition*:

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT this grant shall expire on May 7, 2015;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”
(DOB Application No. 302158974)

Adopted by the Board of Standards and Appeals, May 15, 2007.

83-02-BZII

APPLICANT – Law Offices of Howard Goldman, for Big Sue LLC, owner.

SUBJECT – Application March 21, 2007 – Extension of Time to Complete Construction for a Variance to permit in an M1-1 zoning district, the proposed conversion of a four-story industrial building into a residential building with 34 units which expired on February 25, 2007.

PREMISES AFFECTED – 925 Bergen Street, bounded by Classon and Franklin Avenues, Block 1142, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Chris Wright.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

MINUTES

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of time to complete construction and conversion of a four-story building to residential use, which expired on February 25, 2007; and

WHEREAS, a public hearing was held on this application on April 24, 2007 after due notice by publication in *The City Record*, and then to decision on May 15, 2007; and

WHEREAS, the subject premises is located on the north side of Bergen Street, between Franklin Avenue and Classon Avenue; and

WHEREAS, on February 25, 2003, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21, to permit, within an M1-1 zoning district, the conversion of a vacant four-story manufacturing building to residential use; and

WHEREAS, the applicant represents that construction has been delayed due to resources being allocated to another project, which was recently completed; and

WHEREAS, the applicant now requests an additional four years to complete construction of the subject building; and

WHEREAS, the Board finds that a four-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated February 25, 2003, so that as amended this portion of the resolution shall read: "to grant an extension of time to complete construction for a term of four years from the date of this grant; *on condition* that the use and operation of the building shall substantially conform to BSA-approved plans; and *on condition*:

THAT construction shall be completed by May 15, 2011;

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. 301126528)

Adopted by the Board of Standards and Appeals, May 15, 2007.

52-55-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Bouck Oil Corp., owner.

SUBJECT – Application November 28, 2006 – Amendment,

filed pursuant to §11-412 of the zoning resolution, of previously approved automotive service station with accessory uses located in a C1-2/R5 zoning district. Application seeks to permit the erection of a one story enlargement to an existing building to be used as an accessory convenience store.

PREMISES AFFECTED – 1255 East Gun Hill Road, northwest corner of Bouck Avenue, Block 4733, Lot 72, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD – Laid over to June 19, 2007, at 10 A.M., for continued hearing.

592-71-BZ

APPLICANT – Vito J. Fossella, P.E., for FSD Realty, LLC, owner.

SUBJECT – Application February 2, 2007 – Extension of Term of a previously granted variance for the operation of (UG6) professional office building in an R3-2 & R-2 zoning district which expired on February 15, 2007; and for the extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED – 1010 Forest Avenue, south side of Forest Avenue, Block 316, Lot 27, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Sameh M. El-Meniawy.

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 June 5, 2007, at 10 A.M., for decision, hearing closed.

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

APPEARANCES –

For Applicant: Harold Weinberg.

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 June 5, 2007, at 10 A.M., for decision, hearing closed.

MINUTES

142-70-BZ

APPLICANT – Barbara Hair, Esq., for Target Realty LLC, owner.

SUBJECT – Application December 12, 2006 – Amendment to a variance previously approved pursuant to section 72-21 of the zoning resolution which allowed commercial office space (Use Group 6) on the cellar level of a residential building located in a R7-2 zoning district. The application seeks a change of use in the existing commercial space on the cellar level from Use Group 6 office to Use Group 6 store.

PREMISES AFFECTED – 8 St. Marks Place, south side, 126' east of 3rd Avenue, Block 463, Lot 13, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Barbara Hair.

For Opposition: John F (Councilmember Mendez), David Barkin, Brandon K, Gregory Brender(Glick), David Chang (Senator Duane), Susanne Schrepp(Saint Hauks T.A.) Herman F. Hewitt(CB3Man.) Teresa Hommel, Katherine B. Wolpe, Gabriel Bobek and Bernadette Bigley.

ACTION OF THE BOARD – Laid over to June 19, 2007, at 10 A.M., for continued hearing.

737-86-BZ

APPLICANT – Rampulla Associates Architects, for Angelo Falato, owner.

SUBJECT – Application February 9, 2007 – Extension of Term of a previously granted Variance (§72-21) for an existing one story retail store (Use Group 6) which will expire on June 2, 2007. R3-1 zoning district.

PREMISES AFFECTED – 3304 Amboy Road, between Buffalo Street and Hopkins Avenue, Block 4964, Lot 11, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Phil Rampulla and Linda Doxsey.

ACTION OF THE BOARD – Laid over to June 12, 2007, at 10 A.M., for continued hearing.

520-89-BZ

APPLICANT – Law Office of Fredrick A. Becker, for SJF Audubon Realty, LLC, owner.

SUBJECT – Application March 21, 2007 – Extension of Term for a previously granted variance to permit in an R7-2 zoning district a (Use Group 8) parking lot for more than 5 vehicles which expired on April 18, 2005; a waiver of rules of practice and procedure and an Extension of Time to obtain a Certificate of Occupancy which expired on November 21, 1996.

PREMISES AFFECTED – 65 Audubon Avenue, easterly side of Audubon Avenue, 30' southerly of West 169th Street, Block 2125, Lots 30 & 31, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES –

For Applicant: Lyra J. Altman.

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 June 19, 2007, at 10 A.M., for decision, hearing closed.

214-00-BZ

APPLICANT – Sheldon Lobel, P.C., for Zaliv, LLC, owner.

SUBJECT – Application October 18, 2006 – Extension of Term/Extension of time to obtain a Certificate of Occupancy and Amendment of a Special Permit granted pursuant to §73-242 to permit within a C3 zoning district an eating and drinking establishment.

PREMISES AFFECTED – 2761 Plumb Second Street, northeast corner formed by intersection of Plumb Second Street and Harkness Avenue, Block 8841, Lot 500, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Laid over to June 12, 2007, at 10 A.M., for continued hearing.

135-05-BZ

APPLICANT – Judith Gallent, Esq., Bryan Cave, LLP for L&M Equity Participants Ltd. and Harlem Congregations for Community Improvement, Inc, contract vendees

SUBJECT – Application April 18, 2007 – To reopen and amend a previously -approved zoning variance under ZR §72-21 that allowed the residential conversion of an existing non-complying building previously used as a school (former PS 90) located in an R7-2 district; contrary to ZR §23-142, ZR §23-533, & ZR §23-633. The proposed amendment would permit a 5,987 sf. ft. enlargement to the existing sixth floor.

PREMISES AFFECTED – 217 West 147th Street, located on block bounded by West 147th and West 148th streets and Adam Clayton Powell, Jr. and Frederick Douglas Boulevards, Block 2033, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Judith M. Gallent.

For Administration: Jolene Saul, HPD.

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 June 5, 2007, at 10 A.M., for decision, hearing closed.

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APPEALS CALENDAR

229-06-A

APPLICANT – Sheldon Lobel, P.C., for Breezy Point Cooperative, Incorporated, owner. Thomas Carroll, lessee. SUBJECT – Application September 6, 2006 – Appeal seeking to revoke permits and approvals for the reconstruction and enlargement of an existing one family dwelling which creates new non-compliances, increases the degree of existing non-compliances with the bulk provisions of the Zoning Resolutions and violates provisions of the Building Code regarding access and fire safety. R4 - Zoning District.

PREMISES AFFECTED – 607 Bayside Drive, Adjacent to service road, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Irving Minkin.

ACTION OF THE BOARD – Application dismissed.

THE VOTE TO DISMISS –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the instant appeal comes before the Board in response to a final determination from the Queens Borough Commissioner, dated August 24, 2006, stating that the Department of Buildings (DOB) determined that the applicant complied with all relevant sections of the Administrative Code and the Zoning Resolution and no grounds existed for the revocation of DOB Permit Nos. 402074045 and 402293530; and

WHEREAS, this appeal challenges DOB's decision not to revoke the above-noted permits; and

WHEREAS a public hearing was held on this application on March 20, 2007 after due notice by publication in *The City Record*, and then to dismissal on May 15, 2007; and

WHEREAS, the premises is located within the Breezy Point Cooperative, which is a 403-acre privately-owned community incorporated in 1960; the Cooperative property is comprised of 2,834 separate residential plots leased to individual shareholders/proprietary tenants; and

WHEREAS, the subject site is an individual plot within the Cooperative and is occupied by a single-family home, which was constructed pursuant to the building permit described below; and

WHEREAS, this appeal is brought on behalf of the neighbor at 2 Bayside Avenue; and

WHEREAS, the appellant, the Cooperative, and the proprietary tenant at 2 Bayside Avenue were represented by counsel in this appeal; and

WHEREAS, on May 10, 2006, DOB issued a demolition permit (No. 402293530) to the propriety tenant at 607 Bayside Drive; and

WHEREAS, on May 17, 2006, DOB issued a new building permit (No. 402074045) (the "New Building Permit") for the construction of a single-family home; and

WHEREAS, on September 6, 2006, appellant filed an appeal in opposition to DOB's approval and the New Building Permit; and

WHEREAS, the appellant makes the following assertions: (1) the lot area is contrary to the minimum lot area requirements of ZR § 23-32 and is not subject to the small lot exception of ZR § 23-33; (2) the premises violates the rear yard requirements set forth in ZR § 23-47; (3) the premises does not provide the required ten-foot front yard, per ZR § 23-45; (4) the setback of the terrace from Bayside Drive is contrary to the depth and level of the front yard as set forth in ZR §§ 23-45 and 23-42; (5) the required minimum distance between buildings is not provided per ZR § 23-711; (6) the premises is contrary to the Building Code's Table RS 16-21 regarding the distance between septic tanks, foundation walls, and seepage pits; (7) the premises is not approved without prior certification from the City Planning Commission, per ZR § 62-71; and (8) the premises does not comply with the off-street parking requirements set forth in ZR § 25-22; and

WHEREAS, by letter dated February 27, 2007, DOB issued a ten-day notice of its intent to revoke the approval and New Building Permit based on the owner's failure to provide the required front yard; and

WHEREAS, by letter dated April 11, 2007, DOB informed the project architect that to avoid revocation of the New Building Permit, the plans needed to be revised to reflect a complying front yard; and

WHEREAS, by letter dated April 27, 2007, DOB issued a letter stating that the New Building Permit is revoked; and

WHEREAS, subsequent to the revocation, Board staff informed the appellant that because the New Building Permit had been revoked, as requested, the appeal was moot and the Board would dismiss it at the May 15, 2007 hearing; and

WHEREAS, notwithstanding the revocation of the permit, the appellant made a submission, dated May 3, 2007, requesting that the Board not dismiss the case for the following reasons: (1) the basis for the revocation of the New Building Permit is only one of the issues claimed in the appeal, and DOB's basis for the determination is flawed; (2) the remaining issues, which were part of the litigation preceding this appeal, have not been decided; (3) DOB has not upheld its responsibility to enforce the ZR; (4) DOB has made procedural errors; and (5) the appellant's property rights are denied; and

WHEREAS, the Board notes that DOB has revoked the New Building Permit based on its reconsideration of the front yard question and that, although the revocation is only associated with one issue, the permit is revoked in full; and

WHEREAS, further, the Board notes that the revocation of the New Building Permit is the remedy the appellant sought and because the permit has been revoked in full, this remedy has been obtained; and

WHEREAS, the Board also notes that DOB has directed the proprietary tenant at 2 Bayside Avenue to submit new building plans; and

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WHEREAS, the Board disagrees with the appellant and finds that without new plans to review, its decision on any remaining issues, raised in this appeal or in another forum, would be speculative in nature; and

WHEREAS, accordingly, because the New Building Permit has been revoked and DOB is no longer considering approval of the building plans associated with this appeal, the Board has determined that it is premature to decide any of the remaining issues; and

Therefore it is resolved that the instant appeal is dismissed on the basis of mootness.

Adopted by the Board of Standards and Appeals, May 15, 2007.

34-07-A

APPLICANT – Valentino Pompeo, for Gorian Papa, owner.
SUBJECT – Application January 24, 2007 – Proposed alteration of an existing one family home located within the bed of a mapped street (72nd Lane) which is contrary to Section 35 of the General City Law. R4-1 Zoning District.
PREMISES AFFECTED –72-40 Myrtle Avenue, south of Myrtle Avenue, east of 72nd Street, Block 3511, Lot 27, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Valentino Pompeo.

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 Queens Borough Commissioner, dated January 17, 2007, acting on Department of Buildings Application No. 402453572, reads in pertinent part:

“A1- The existing building to be altered partially lies within the bed of a mapped street contrary to General City Law Article 3, Section 35.”; and

WHEREAS, a public hearing was held on this application on May 15, 2007 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated May 8, 2007, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated March 28, 2007, the Department of Transportation (DOT) states that it has reviewed the above project and has no objections; and

WHEREAS, the Board notes that DOT did not indicate that it intends to include the applicant’s property in its ten-year capital plan; and

WHEREAS, by letter dated February 28, 2007, the Department of Environmental Protection states that it reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate

evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated January 17, 2007, acting on Department of Buildings Application No. 402453572, is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received March 5, 2007”-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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, May 15, 2007.

76-07-A

APPLICANT – Zygmunt Staszewski, for Breezy Point Cooperative, Inc., owner.

SUBJECT – Application April 4, 2007 – Proposal to reconstruct and enlarge an existing one family dwelling and the upgrade of an existing private disposal system which does not front on mapped street, contrary to General City Law Section 36. R4 Zoning District.

PREMISES AFFECTED – 485 Seabreeze Walk, east side of Seabreeze Walk, 204.11’ south of Beach 213th Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Michel Harley.

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 Queens Borough Commissioner, dated March 23, 2006, acting on Department of Buildings Application No. 40254413, reads in pertinent part:

“A1 - The street giving access to the existing building to be replaced is not duly placed on the map of the City of New York. And

- a) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law;

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- b) Existing Dwelling to be replaced does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code.

A-2 - The proposed upgrade of the private disposal system is contrary to the Department of Buildings policy.”; and

WHEREAS, a public hearing was held on this application on May 15, 2007 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated April 11, 2007, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated March 23, 2006, acting on Department of Buildings Application No. 40254413, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked “Received April 4, 2007”-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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, May 15, 2007.

Jeffrey Mulligan, Executive Director

Adjourned: 11:20 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, MAY 15, 2007
1:30 P.M.**

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

ZONING CALENDAR

318-05-BZ

APPLICANT – Marc A. Chiffert, P.E., for 2040 MLK Realty, LLC, owner.

SUBJECT – Application November 1, 2005 – Zoning variance under §72-21 to allow a proposed horizontal enlargement of an existing one-story non-conforming commercial building in an R7-1 district. The proposal calls for Use Group 6 retail use and is contrary to §52-22.

PREMISES AFFECTED – 2040 Dr. MLK JR. Boulevard f/k/a 2040 University Avenue, northeast corner of intersection of West Burnside Avenue and Dr. MLK Jr. Boulevard, Block 3210, Lot 2, Borough of Bronx.

COMMUNITY BOARD #5BX

APPEARANCES –

For Applicant: Marc A. Chiffert.

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 Bronx Borough Commissioner, dated May 1, 2006, acting on Department of Buildings Application No. 200948715, reads in pertinent part: “In an R7-1 zoning district, the proposed enlargement of a non-conforming use (retail store, Use Group 6) is contrary to Section 52-22 ZR.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R7-1 zoning district, the enlargement of a one-story commercial building to be occupied by Use Group 6 retail use, which is contrary to ZR § 52-22; and

WHEREAS, a public hearing was held on this application on February 13, 2007 after due notice by publication in the *City Record*, with a continued hearing on April 10, 2007, and then to decision on May 15, 2007; 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 Collins, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 5, Bronx, recommends approval of the application; and

WHEREAS, City Council Member Joel Rivera provided a letter in support of this application; and

WHEREAS, the site is located on the northeast corner of West Burnside Avenue and Dr. Martin Luther King, Jr. Boulevard, within an R7-1 zoning district; and

WHEREAS, the site has frontage on two streets, but is otherwise surrounded by the Aqueduct Walk Park on its north and east sides; the ribbon-shaped park extends for a distance north and south of the site; and

WHEREAS, the site is the only lot that is not part of the park on the western half of the subject city block and is the only site adjacent to the park on two sides; and

WHEREAS, the site is irregularly-shaped with a total lot

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area of 1,542 sq. ft.; and

WHEREAS, the site is occupied by a one-story commercial building (UG 6) with a floor area of 379 sq. ft., occupied by an automotive repair shop; the remainder of the site is occupied by parking; and

WHEREAS, the applicant proposes to build a 1,674 sq. ft. one-story, with mezzanine, enlargement to the commercial building; and

WHEREAS, the proposed enlargement provides for two separate retail uses with one store having a 744 sq. ft. first floor and a 248 sq. ft. mezzanine and an adjacent store having a 798 sq. ft. first floor and a 266 sq. ft. mezzanine, and

WHEREAS, the combined floor area for the existing building and the proposed enlargement is approximately 2,053 sq. ft. (1.33 FAR), which is less than the maximum permitted under zoning district regulations; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable regulations: (1) the site is small and irregularly shaped; (2) the site has a significant slope; and (3) the history of development at the site; and

WHEREAS, as to shape, the site is in the shape of a narrow wedge, ranging from a depth of 8'-10" at the northern edge to a depth of approximately 25'-9" at the southern edge with a cutout at the wider end; and

WHEREAS, the applicant represents that this condition causes the following problems: (1) the irregularly-shaped site requires the building to have a high ratio of perimeter wall to floor area, which results in premium construction costs; and (2) irregularly-shaped and inefficient floor plates compromise the amount of usable space for a conforming use; and

WHEREAS, as to the site's size, the applicant states that the 1,542 sq. ft. lot is too small to accommodate a multi-dwelling building (1,700 sq. ft. is the minimum lot size for a multi-dwelling building); and

WHEREAS, accordingly, the only permitted development would be a single- or two-family home; the applicant represents that in addition to the impractical floor plans of a residential use at this site, there is no context for single-family homes in the vicinity of the site and it cannot feasibly be accommodated, as discussed in more detail below; and

WHEREAS, the applicant submitted plans reflecting a conforming development, which reflects an irregularly-shaped single-family home and occupies five different levels accessed by four staircases; and

WHEREAS, accordingly, the applicant asserts that the site could not feasibly accommodate a conforming use; and

WHEREAS, the applicant notes that although the as of right scenario proposed the use of all of the available floor area, the layout of the many-leveled home is highly inefficient; and

WHEREAS, accordingly, without the multi levels, the proposed enlargement does not provide for all the available floor area; a maximum floor area of 3,084 sq. ft. (2.0 FAR) is permitted; and

WHEREAS, as to the uniqueness of the size and shape, the applicant notes that this is the smallest site within a 400-sq. ft. radius and it is the only one with such an irregular shape; and

WHEREAS, the Board agrees that the size and the shape of the site are unique, and that constraints are placed on a conforming development; and

WHEREAS, as to the slope, the applicant represents that the slope at the site results in inefficient floor plates and that the proposed design of two separate stores – one at the lower level and one at the upper level – is necessary to provide efficient floor plates and accessibility, given the grade change across the site; and

WHEREAS, because each store will be small, the applicant proposes mezzanines to help accommodate additional floor area and make the units viable; and

WHEREAS, as to the historic use at the site, the applicant states that the site has been used for commercial use for many decades and has provided photographs which document its use as a gas station and an automotive repair shop with parking; and

WHEREAS, the applicant represents that the existing one-story automotive repair shop is obsolete and does not provide a reasonable return on 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 compliance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that because of its unique physical conditions, there is no reasonable possibility that the development of the property in strict compliance with zoning district regulations will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study analyzing a single-family home; as noted, the lot is too small to accommodate a multi-dwelling building; and

WHEREAS, the study concluded that the conforming scenario would not realize a reasonable return, because a conforming building would have compromised and inefficient floor plates and because there is no market for a single-family home at this location, which is heavily-trafficked and characterized by large multi-unit buildings; and

WHEREAS, the applicant submitted a letter from a real estate broker stating that the site, which is isolated and surrounded by a park and is at a heavily-trafficked intersection is not marketable for a single-family home; and

WHEREAS, based upon its review of the submissions of the applicant, the Board has determined that because of the subject lot'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

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or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the site is located in an area characterized by a mix of uses including five- and six-story multi-dwelling unit buildings, a number of commercial uses, and the Aqueduct Walk Park, as noted; and

WHEREAS, the applicant notes that the site has been occupied by a commercial use for many decades; and

WHEREAS, the applicant notes that the proposed height of one-story with mezzanine is compatible with nearby buildings; and

WHEREAS, the Board notes that the current proposal respects the height and street wall requirements of the subject zoning district; and

WHEREAS, the Board further notes that the elimination of the wide curb cut on and Dr. Martin Luther King, Jr. Boulevard and the elimination of parking at the site generally improves the site conditions and impact on the street and the park; and

WHEREAS, the applicant also agrees to provide exterior lighting on the side of the building facing the park and to design the site so as to minimize visual impact on the park; and

WHEREAS, the Board agrees that the proposed use would eliminate an existing non-conforming use and replace it with a use that is more compatible with the surrounding area; and

WHEREAS, additionally, the Community Board has stated that the current use is unattractive and not compatible with the neighborhood and that the proposed use would be a desirable change; and

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

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

WHEREAS, the Board notes that the proposed plan is for 2,053 sq. ft. (1.33 FAR) and the maximum floor area permitted in the closest commercial district is 3,084 sq. ft. (2.0 FAR); an FAR of 3.44 is permitted for a conforming use at the site; and

WHEREAS, accordingly, the Board finds that the requested floor area 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 Section 617 of 6NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA091X, dated August 8, 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, 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 R7-1 zoning district, the enlargement of a one-story commercial building to be occupied by Use Group 6 retail use, which is contrary to ZR § 52-22, *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 March 29, 2007"- five (5) sheets; and *on further condition*:

THAT the following are the bulk parameters of the new building: one story and mezzanine, a total floor area of 2,053 sq. ft. (1.33 FAR), and a total height of 23'-0", all as indicated 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, May 15, 2007.

327-05-BZ

APPLICANT– Rothkrug Rothkrug Weinberg & Spector, for John Damiano, owner.

SUBJECT – Application November 11, 2005 – Special Permit (§73-125) to allow a proposed ambulatory diagnostic treatment care facility (Use Group 4) limited to less than 10,000 sf of floor area to locate in an R3X district. The

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proposal calls for a one-story and cellar building and fourteen (14) accessory parking spaces.

PREMISES AFFECTED – 5135 Hylan Boulevard, between Wendy Drive and Bertram Avenue, Block 6499, Lot 95, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Adam W. Rothkrug.

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 Staten Island Borough Commissioner, dated October 12, 2005, acting on Department of Buildings Application No. 500750225, reads in pertinent part:

“The proposed ambulatory diagnostic or treatment health care facility, in an R3X zoning district, requires a special permit from the Board of Standards and Appeals pursuant to Section 73-125 of the NYC Zoning Resolution.”; and

WHEREAS, this is an application under ZR §§ 73-125 and 73-03, to permit, on a site within an R3X zoning district, within the Special South Richmond Development District (SRD), the construction of a one-story and cellar building to be occupied by an ambulatory diagnostic/treatment health care facility (Use Group 4) with 14 parking spaces, contrary to ZR § 22-14(a); and

WHEREAS, a public hearing was held on this application on March 6, 2007 after due notice by publication in *The City Record*, and with a continued hearing on April 17, 2007, and then to decision on May 15, 2007; and

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

WHEREAS, Community Board 3, Staten Island, recommends disapproval of this application, citing the following concerns: (1) there is a designated school bus stop in front of the site, (2) the potential impact on traffic, (3) parking is not permitted on surrounding streets, (4) there are already several medical buildings in the area, (5) additional curb cuts will impact traffic flow on Hylan Boulevard, and (6) the site is within a private community, which limits the use on the site to residential use; and

WHEREAS, the Jansen Court Homeowners Association provided testimony in opposition to the application, stating that, per the Association’s by-laws, only residential use is permitted at the site; the Association also reiterated the concerns cited by the Community Board; and

WHEREAS, certain neighbors provided testimony in opposition to the application, citing concerns about the potential impact the proposed use would have on traffic safety; and

WHEREAS, the subject site is located on the north side of Hylan Boulevard, between Wendy Drive and

Bertram Avenue, within an R3X (SRD) zoning district ; and
WHEREAS, the site has a lot area of 12,262.4 sq. ft. and is currently vacant; and

WHEREAS, the facility will occupy 2,749.67 sq. ft. of floor area (0.22 FAR) on the first floor and approximately 2,718 sq. ft. of floor space in the cellar; and

WHEREAS, because there will be office space in the cellar level, the floor space in the cellar is included in the total floor area when calculating the required parking; therefore, the total floor area for parking calculation purposes is 5,467 sq. ft.; and

WHEREAS, accordingly, 14 parking spaces will be provided at the rear of the building (one space per every 400 sq. ft. of floor area); and

WHEREAS, the applicant represents that the facility will provide Use Group 4 ambulatory diagnostic and treatment health care services, including internal medicine/pediatrics, physical therapists, and outpatient surgery; and

WHEREAS, the applicant initially proposed to provide one curb cut on either side of the building, with the eastern curb cut limited to entrance and the western curb cut limited to exit; and

WHEREAS, at hearing, the Board asked the applicant to analyze the proposed curb cuts in light of the existing bus stop in front of the site and the general traffic conditions; and

WHEREAS, the applicant responded that the bus top is not used by New York City Transit, but is used by the private high school across the street, once a day for the purpose of picking up students at the end of the school day; and

WHEREAS, the applicant represents that DOT has been consulted about relocating the bus stop in front of the site, but there has not yet been confirmation that it will be moved; and

WHEREAS, at the Board’s direction, the applicant redesigned the traffic circulation at the site to eliminate one of the curb cuts and to provide a single curb cut at the eastern side of the site to accommodate entrance and exit; and

WHEREAS, further, in an effort to minimize the potential impact on traffic and safety, the applicant agrees to post signs at the entrance/exit to the parking lot directing drivers that children may be present and that only right turns are permitted; and

WHEREAS, the Board notes that the applicant is providing all of the required parking and does not anticipate overflow; and

WHEREAS, finally, the Board directed the applicant to provide landscaping around the perimeter of the site and around the front walkway; and

WHEREAS, the Board notes that the proposed building provides for 78 percent open space (45 percent is the minimum required); and

WHEREAS, accordingly, the Board finds that the amount of open area and its distribution on the lot conform

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to standards appropriate to the character of the neighborhood; and

WHEREAS, the facility 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, as to the Homeowners Association's assertion that the property owner is bound by its by-laws and the proposed use is not permitted, the Board notes that it does not have the authority to enforce the bylaws, which are part of a private agreement that does not override the ZR; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-125 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 06BSA030R, dated November 30, 2006; and

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

WHEREAS, the Board has determined that the operation of the facility 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 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 ZR §§ 73-125 and 73-03, to permit, on a site within an R3X zoning district, within the Special South Richmond Development District, the construction of a one-story and cellar building to be occupied by an ambulatory diagnostic/treatment health care facility (Use Group 4) with 14 parking spaces, contrary to ZR § 22-14(a); *on condition* that all work shall substantially conform to drawings filed with this application marked "Received November 15, 2006"--four (4) sheets and "Received April 24, 2007"--one (1) sheet; and *on further condition*:

THAT there shall be no change in use of the facility

without prior application to and approval from the Board;

THAT landscaping shall be provided and maintained, as per the approved plans;

THAT signs shall be posted at the entrance/exit of the parking lot stating that exits shall be restricted to right turns and to caution for children;

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

THAT the parameters of the building shall be as follows: 2,749.67 sq. ft. of floor area on the first floor, 2,718 sq. ft. of floor space in the cellar, and 14 parking spaces, as per the approved plans;

THAT the curb cut and relocation of the bus stop shall be approved by DOT and/or New York City Transit, as required, prior to the issuance of any permits;

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

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

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

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

Adopted by the Board of Standards and Appeals,
May 15, 2007.

425-05-BZ

APPLICANT-- Steven Sinacori of Stadtmauer & Bailkin, for Essol Realty, LLC, owner.

SUBJECT -- Application December 28, 2005 -- Variance (§72-21) to allow a proposed three-story residential building with ground floor community facility use to violate applicable requirements for floor area and FAR (§23-141c and §24-162), front yard (§24-34), side yards (§24-35), lot coverage (§23-141 and §24-111) and minimum distance between legally required windows and lot lines (§23-86(a)). Proposed development will contain five (5) dwelling units and three (3) parking spaces and is located within an R4 zoning district.

PREMISES AFFECTED -- 2409 Avenue Z, north side of Avenue Z, Bedford Avenue to the east, East 24th to the west, Block 7441, Lots 1 and 104, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES --

For Applicant: Calvin Wong.

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

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THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 7, 2007, acting on Department of Buildings Application No. 302041270, reads in pertinent part:

- “1. Proposed floor area is contrary to ZR §§ 23-141 and 24-162.
2. Proposed front and side yard are contrary to ZR §§ 24-34 and 24-35 respectively.
3. Proposed lot coverage and open space are contrary to ZR §§ 23-141 and 24-111 respectively.
4. Proposed minimum distance between legally required windows and lot lines is contrary to ZR § 23-86(a).
5. Proposed number of parking spaces is contrary to ZR § 25-22.”; and

WHEREAS, the decision of the Brooklyn Deputy Borough Commissioner, dated May 7, 2007, acting on Department of Buildings Application No. 302041270, reads in pertinent part:

“Maximum width of curb cut to be 15’-0”.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R4 zoning district, the proposed construction of a three-story mixed-use residential and community facility building, which does not comply with applicable zoning requirements concerning floor area, FAR, front and side yards, lot coverage, minimum distance between legally required windows and lot lines, number of parking spaces, and curb cut width, contrary to ZR §§ 23-141, 23-86, 24-111, 24-162, 24-34, 24-35, 25-22, and 25-631; and

WHEREAS, the proposed building will have a community facility floor area of 1,010 sq. ft. (0.24 FAR), a residential floor area of 7,621 sq. ft. (1.80 FAR), and a total floor area of 8,631 sq. ft. (2.04 FAR) (7,408 sq. ft. of floor area and an FAR of 1.75 are the maximum permitted), a complying street wall and total height of 33 feet (without bulkhead), three parking spaces (five are required), and a curb cut width of 22’-0” (15’-0” is the maximum permitted); and

WHEREAS, a public hearing was held on this application on January 30, 2007 after due notice by publication in the *City Record*, with a continued hearing on April 24, 2007, and then to decision on May 15, 2007; 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 Hinkson; and

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

WHEREAS, the subject premises is located on the north side of Avenue Z, between East 24th Street and Bedford Avenue, within an R4 zoning district; and

WHEREAS, the site comprises tax lot 1, which has a small triangle shape with frontage on Avenue Z, and tax lot 104, a long narrow trapezoid which has frontage on Avenue Z and abuts tax lot 1 along its rear lot line; together, the lots form the approximate shape of a large triangle; and

WHEREAS, the lots are proposed to be merged into a single zoning lot, Lot 104; and

WHEREAS, the site has approximately 142’-11” of frontage on Avenue Z and a lot area of 4,233 sq. ft.; and

WHEREAS, the site is currently occupied by a vacant two-story building which was formerly used as a deli/grocery store and will be demolished in anticipation of the new building; and

WHEREAS, the applicant proposes to construct an 8,631-sq. ft., three-story, five-family mixed-use residential/community facility building; and

WHEREAS, specifically, a portion of the cellar and first floor will be occupied by community facility use; the remainder of the first floor will be occupied by one dwelling unit and the second and third floors will each be occupied by two dwelling units; two parking spaces will be enclosed on the first floor and one parking space will be provided outside the building; and

WHEREAS, as noted above, the proposed building requires certain waivers; thus, the instant variance application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site with a complying building: (1) the site is small and irregularly shaped; and (2) the adjacent built conditions constrain the development of the site; and

WHEREAS, as to the shape and size of the site, the applicant states that the site has frontage of approximately 142’-11” on Avenue Z and has a depth ranging from 57’-0” at its eastern end to 0’-0” at its western end; and

WHEREAS, the applicant represents that, due to these conditions, if the required front yard of 10’-0” were provided, the building depth would range from only 11 to 38 feet and the FAR would only be 1.02 (1.75 is the maximum permitted FAR); and

WHEREAS, accordingly, the applicant represents that the site does not have sufficient area and depth to support a complying residential or mixed-use structure over a substantial portion of the site and to provide the required yards; and

WHEREAS, the applicant notes that the front yard and the eastern side yard are existing non-complying conditions which will be maintained; and

WHEREAS, further, the applicant notes that the second side yard will be provided at varying widths of approximately 3’-6” due to the need to provide right angles at the rear of the building to accommodate an adequate building depth and efficient layout; and

WHEREAS, the applicant states that the triangular shape causes two additional problems: (1) the sharply-angled site requires the building to have a high ratio of perimeter wall to floor area, which results in premium construction costs; and (2) irregularly-shaped and inefficient floor plates compromise the amount of usable space for dwelling units and parking; and

WHEREAS, the applicant also notes that the small size of the lot makes it impractical to comply with the parking requirement while still providing a reasonable site plan and

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layout for the building; and

WHEREAS, specifically, the shallow depth of the site makes it infeasible to accommodate parking below grade and the five required parking spaces cannot be feasibly accommodated at the site; and

WHEREAS, the applicant represents that, due to the constraints of the site, the 22'-0" curb cut is required in order to accommodate access to the three parking spaces; and

WHEREAS, as to the surrounding conditions, the adjacent building on Lot 68, with frontage around the corner on East 24th Street, abuts the lot line at the narrowest portion of the subject site; and

WHEREAS, additionally, the existing building on the site is attached to a two-story mixed-use commercial building at the corner of Avenue Z and Bedford Avenue, which is not part of this application; and

WHEREAS, the applicant represents that the conditions on these adjacent lots limits the ability to develop the lot in compliance with all regulations; and

WHEREAS, the applicant represents that the configuration of the lot and the built conditions (1) confines the development to only a portion of the site and (2) requires that certain required windows be provided without sufficient distance from the lot line; and

WHEREAS, as to the uniqueness of this condition, the applicant represents that this site is one of approximately five irregularly-shaped sites within the 400-ft. radius and one of only two which also have surrounding conditions which so limit the development 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 compliance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study which analyzed an as of right mixed-use community facility/residential alternative, which provided for a two-story with attic building with community facility use on the ground floor and a total of three residential units on the upper floors; and

WHEREAS, the study concluded that the complying scenario would not realize a reasonable return, since a complying building would have compromised and inefficient floor plates and would not accommodate all of the available floor area; and

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

WHEREAS, the applicant represents that the 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 represents that the area is

occupied by a mix of uses including two- and three-story two family residences, detached single-family homes, three- and four-story multi-family residences, and two-story mixed-use buildings with commercial use on the first floor; and

WHEREAS, the applicant initially proposed a four-story building but reduced the height to three stories to be more compatible with nearby uses; and

WHEREAS, the applicant also agreed to provide the outdoor parking away from and provide landscaping along the westernmost portion of the rear lot line to diminish the impact on the adjacent residential use built to the lot line; and

WHEREAS, the applicant also agreed to set the building back one foot from the street line in order to match the street wall of the adjacent commercial building on Avenue Z; and

WHEREAS, the Board notes that the current proposal respects the height and street wall requirements of the subject zoning district; 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 pre-existing size and shape of the lot; and

WHEREAS, as noted, the applicant initially proposed a four-story building with an FAR of 2.68; these parameters have been reduced to a three-story building with an FAR of 2.04; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA045K, dated August 17, 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

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proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §72-21 and grants a variance to permit, on a site within an R4 zoning district, the proposed construction of a mixed-use three-story residential and community facility building, which does not comply with applicable zoning requirements concerning floor area, FAR, front and side yards, lot coverage, minimum distance between legally required windows and lot lines, number of parking spaces, and curb cut width, contrary to ZR §§ 23-141, 23-86, 24-111, 24-162, 24-34, 24-35, 25-22, and 25-631 *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 March 1, 2007”–ten (10) sheets and “Received May 1, 2007”–one (1) sheet; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a community facility floor area of 1,010 sq. ft. (0.24 FAR), a residential floor area of 7,621 sq. ft. (1.80 FAR), and a total floor area of 8,631 sq. ft. (2.04 FAR), a street wall and total height of 33 feet (without bulkhead), three parking spaces, and a curb cut width of 22’-0”, as indicated 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, May 15, 2007.

278-06-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for 871 Bergen Street, LLC, owner.

SUBJECT – Application October 17, 2006 – Variance (§72-21) to permit a four-story residential building on a vacant lot in an M1-1/R6 zoning district. The proposal is contrary to §42-00.

PREMISES AFFECTED – 871 Bergen Street, between Classon and Franklin Avenues, Block 1142, Lot 92, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Christopher Wright.

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 13, 2006, acting on Department of Buildings Application No. 302207010, reads in pertinent part:

“Proposed residential use is not permitted in M1-1 district pursuant to Section 42-00 of the Zoning Resolution.”; and

WHEREAS, this is an application under ZR §72-21, to permit, on a site partially within an M1-1 zoning district and partially within an R6 zoning district, a four-story with mezzanine residential building, which is contrary to ZR §42-00; and

WHEREAS, the proposed building will have a total floor area of 11,585 sq. ft. (2.20 FAR), a street wall height of 44’-6””; a total height of 54’-6”, without bulkheads, and 64’-10”, with bulkheads; a rear yard of 41’-11””; and 16 dwelling units (the “Proposed Building”); and

WHEREAS, a public hearing was held on this application on March 13, 2007 after due notice by publication in the *City Record*, with continued hearings on April 10, 2007 and May 8, 2007, and then to decision on May 15, 2007; and

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

WHEREAS, Community Board 8, Brooklyn, recommends disapproval of the application, citing concerns about the need for affordable housing and the displacement of current residents of the area; and

WHEREAS, City Council Member Letitia James submitted a letter in opposition to the application, citing the same concerns as the Community Board; and

WHEREAS, the site is located on the north side of Bergen Street, between Classon Avenue and Franklin Avenue; and

WHEREAS, the portion of the site within 12 feet of the western property line is located within an R6 zoning district and the remainder of the site is located within an M1-1 zoning district; and

WHEREAS, the site has a total width of 48 feet, a depth of 110 feet, and a lot area of 5,280 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the proposed building will provide for four simplex dwelling units on each of the first three floors, and four duplex dwelling units on the fourth floor and mezzanine; and

WHEREAS, because the Proposed Building will contain Use Group 2 dwelling units, the instant variance applicant for use was filed; and

WHEREAS, the applicant represents that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site is small; (2) the site is narrow and split between an M1-1 zoning district and an R6 zoning district; and (3) there are residential uses on both sides of the site; and

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WHEREAS, as to the size and width of the site, as noted, the site has a lot area of 5,280 sq. ft. with a width of only 48 feet; and

WHEREAS, the applicant represents that the small size and narrow width results in conditions that could not accommodate a modern conforming use; and

WHEREAS, the applicant submitted evidence reflecting that the site had been advertised for a year and was not marketable for a conforming use; and

WHEREAS, as to the uniqueness of this condition, the applicant distinguished all of the other vacant lots within a 400-ft. radius of the site in that they all are either: (1) much larger, (2) abut conforming uses with considerable street frontage, or (3) front on a street which is wholly within the M1-1 zoning district; and

WHEREAS, the applicant notes that there are also several vacant lots within the radius, which are within the R6 zoning district; and

WHEREAS, further, since the westernmost 12 feet (25 percent of the total width) are within an R6 zoning district, leaving a width of only 36 feet within the M1-1 zoning district; and

WHEREAS, the Board notes that the uses permitted within the 12 ft. wide portion of the site within the R6 zoning district and those permitted within the 36 ft. wide portion of the site within the M1-1 zoning district are not compatible; and

WHEREAS, accordingly, neither portion of the site has an insufficient width to feasibly accommodate a conforming use therein; and

WHEREAS, further, even if the entire site could be used for conforming use in accordance with ZR § 77-00 – Special Provisions for Zoning Lots Divided by District Boundaries – the footprint would be limited in width and size and would not be able to accommodate a conforming use; and

WHEREAS, as to the adjacent uses on both sides of the site, the applicant notes that the small size of the site cannot be remedied by combining with the sites on either side because those sites are occupied by established residential uses; and

WHEREAS, as noted, the western portion of the site is included within the large R6 zoning district, which also includes the entire block directly across Bergen Street; 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 asserts that because of its unique physical conditions, there is no reasonable possibility that the development of the property in conformance with the use will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study analyzing a conforming industrial building; and

WHEREAS, the applicant concluded that the conforming scenario would not realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject

lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed 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 states that the immediate area is a mix of residential, commercial, and manufacturing/industrial uses; and

WHEREAS, the applicant notes that the proposed residential use is consistent with the character of the area, which includes many other residential uses, including all of the adjacent buildings to the west along Classon Avenue, and the three adjacent buildings to the east; and

WHEREAS, the applicant represents that the proposed building complies with all of the requirements of the adjacent R6 zoning district, except for the parking requirement discussed below; and

WHEREAS, the character of the residential buildings adjacent to the site and in the close vicinity is a height of three or four stories; and

WHEREAS, all of the adjacent residential buildings are four-story; and

WHEREAS, the Board notes that the partial fifth floor is setback 15 feet from the street to minimize its visibility; and

WHEREAS, the applicant initially proposed 17 dwelling units and five parking spaces below grade at the rear of the building; and

WHEREAS, at hearing, the Board questioned whether, notwithstanding the R6 zoning district parking requirement (nine spaces), the use of the rear yard for parking was not compatible with adjacent uses; and

WHEREAS, in response, the applicant analyzed the current proposal (16 dwelling units without any parking) and two proposals with 17 dwelling units and five parking spaces, one with partially-covered below grade parking and one with parking at grade; and

WHEREAS, the applicant demonstrated that the alternative without parking provided the benefit to adjacent uses of a large open rear yard and also resulted in an improved layout of the building, including its access to light and air at the rear; and

WHEREAS, the applicant also performed a parking study which demonstrated that, during peak hours, there were 39 available on-street parking spaces out of a total of 62 within a single block of the site; and

WHEREAS, further, the applicant noted that the area is well-served by public transportation including a subway stop one block away; and

WHEREAS, in support of the above statements, the applicant submitted a land use map, showing the various uses in the immediate vicinity of the site; and

WHEREAS, based upon its review of the submitted land

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use map and its inspection, the Board agrees that the area includes a significant amount of residential use, and finds that the introduction of 16 dwelling units will not impact nearby conforming uses nor negatively affect the area's character; and

WHEREAS, the Board has reviewed the comments of the Community Board and Council Member James but notes that the requirement for affordable housing is not within its jurisdiction; and

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

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

WHEREAS, after the plans were revised to provide for open space at the rear of the building instead of parking, the applicant modified the interior layout and the number of dwelling units necessary to provide a reasonable return was reduced from 17 to 16; 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 Sections 617.6(h) and 617.2(h) of 6 NYCRR; 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. 07BSA029K, dated October 7, 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, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the applicant: October 7, 2006 EAS, the July 2006 Phase I Environmental Site Assessment Report; and the March 29, 2007 and January 15, 2007 Air Quality response submissions; and

WHEREAS, these submissions specifically examined the proposed action for Hazardous Materials and Air Quality; and

WHEREAS, a DEP Restrictive Declaration (the "DEP RD") was executed on April 23, 2007 and submitted for proof of recording on April 27, 2007 and requires that hazardous materials concerns be addressed; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the DEP RD and the applicant's agreement to the conditions noted below; 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 on a site partially within an M1-1 zoning district and partially within an R6 zoning district, a four-story residential building, which is contrary to ZR § 42-00 *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 7, 2007"-(10) sheets; and *on further condition*:

THAT the following are the bulk parameters of the building: four stories, with a fourth floor mezzanine; a total floor area of 11,585 sq. ft. (2.20 FAR); a street wall height of 44'-6"; a total height of 54'-6", without bulkheads, and 64'-10", with bulkheads; a rear yard of 41'-11"; and 16 dwelling units, all as indicated on the BSA-approved plans;

THAT there shall be no habitable room in the cellar;

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 prior to the issuance of any DOB permit for any work on the site that would result in soil disturbance (such as site preparation, grading or excavation), the applicant or any successor will perform all of the hazardous materials remedial measures and the construction health and safety measures as delineated in the Remedial Action Plan and the Construction Health and Safety Plan to the satisfaction of DEP and submit a written report that must be approved by DEP;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until DEP shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the Remedial Action Plan and Health and Safety Plan has been completed to the satisfaction of DEP;

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

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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, May 15, 2007.

309-06-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Melody Silvers and Morris Silvers and Morris Silvers, owners.

SUBJECT – Application November 30, 2006 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (§23-141(a)) and side yard requirement (§23-461) in an R-2 zoning district.

PREMISES AFFECTED – 2817 Avenue M, between East 28th and East 29th Street, Block 7646, Lot 3, 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 Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 20, 2006, acting on Department of Buildings Application No. 302221851, reads in pertinent part:

- “1. Proposed enlargement increases the degree of non-compliance of an existing building with respect to floor area ratio, which is contrary to ZR Section 23-141(a)
2. Proposed enlargement increases the degree of non-compliance of an existing building with respect to open space ratio, which is contrary to ZR Section 23-141(a)
3. Proposed enlargement increases the degree of non-compliance of an existing building with respect to side yards, which is contrary to ZR Section 23-461(a).”; and

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

WHEREAS, a public hearing was held on this application on April 24, 2007, after due notice by publication in *The City Record*, and then to decision on May 15, 2007; and

WHEREAS, Community Board 14, Brooklyn,

recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Avenue M, between East 28th Street and East 29th Street; and

WHEREAS, the subject site has a total lot area of 2,700 sq. ft., and is occupied by a 1,771.47 sq. ft. (0.656 FAR) single-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 applicant seeks an increase in the floor area from 1,771.47 sq. ft. (0.656 FAR) to 2,613.47 sq. ft. (0.968 FAR); the maximum floor area permitted is 1,350 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will decrease the open space ratio from 97.4 percent to 49.9 percent (a minimum open space ratio of 150 percent is required); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard of 2'-10 1/4" (side yards with a minimum width of 5'-0" each are required); and

WHEREAS, the applicant notes that because the home is within 100 feet of the corner, no rear yard is required; and

WHEREAS, the Board notes that the enlargement will be located entirely at the rear of the existing home; 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, 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 single-family dwelling, which does not comply with the zoning requirements for floor area, FAR, open space ratio, and side yards, contrary to ZR §§ 23-141 and 23-461; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received November 30, 2006”–(4) sheets and “March 20, 2007”–(8) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the

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certificate of occupancy;

THAT the following shall be the bulk parameters of the building: a total floor area of 2,613.47 sq. ft., a total FAR of 0.968, a perimeter wall height of 22'-7", total height of 30'-0", a front yard of 10'-1 1/2", side yards of 6'-0 3/4" and 2'-10 1/4", and open space of 1,306.16 sq. ft., as illustrated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, May 15, 2007.

378-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Hieronima Rutkowska, owner.

SUBJECT – Application November 29, 2004 – Variance (§72-21) to permit the construction of a four-story residential building and a four-car garage. The Premise is located on a vacant lot in an M1-1 zoning district. The proposal is contrary to §42-00.

PREMISES AFFECTED – 94 Kingsland Avenue, northeast corner of the intersection between Kingsland Avenue and Richardson Street, Block 2849, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to June 12, 2007, at 1:30 P.M., for deferred decision.

29-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Iliva Honovich, owner.

SUBJECT – Application February 16, 2006 – Zoning variance pursuant to ZR §72-21 to allow a proposed multiple family dwelling containing fourteen (14) dwelling units to violate applicable floor area, open space, lot coverage, density, height and setback, and front and side yards requirements; contrary to ZR §§23-141, 23-22, 23-45, 23-461 and 23-633. Premises is located within an R4 district. PREMISES AFFECTED – 1803 Voorhies Avenue, East 18th Street and East 19th Street, Block 7463, Lots 47, 49, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

APPEARANCES –

For Applicant: Irving Minkin.

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 June 19, 2007, at 1:30 P.M., for decision, hearing closed.

75-06-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Cord Meyer Development, owner.

SUBJECT – Application April 25, 2006 – Zoning variance pursuant to §72-21 to allow a proposed twenty-one (21) story residential building with ground floor retail and community facility uses to violate applicable FAR (§23-142 and §35-22), open space ratio (§23-142, §35-22 and §35-33) and sky exposure plane (§23-632) regulations. The proposed building would include 136 dwelling units and 146 parking spaces. The project site is located within an R7-1/C1-2 zoning district.

PREMISES AFFECTED – 108-20 71st Avenue, northeast corner of Queens Boulevard and 71st Avenue, Block 2224, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD – Laid over to June 12, 2007, at 1:30 P.M., for adjourned hearing.

100-06-BZ

APPLICANT– Francis R. Angelino, for Old Gowanus Road, LLC, owner.

SUBJECT – Application May 23, 2006 – Variance (§72-21) to allow a proposed residential building to violate regulations for maximum height (§23-633), minimum dimensions of inner court (§23-851) and permitted obstructions in courts (§23-87). The proposed building will contain five (5) dwelling units and three (3) parking spaces. Site is located in an R6B district.

PREMISES AFFECTED – 638-640 President Street, between 4th and 5th Avenues, Block 958, Lots 35 and 36, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Francis R. Angelino, Jack Freeman and Shael Shapiro.

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 June 5, 2007, at 1:30 P.M., for decision, hearing closed.

152-06-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for

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Gregory Montalbano, owner.

SUBJECT – Application July 11, 2006 – Special Permit (§73-125) to allow the proposed two-story ambulatory diagnostic/treatment care facility containing 5,565 square feet of floor area and parking for fourteen vehicles. The Premise is located in an R3X zoning district. The proposal is contrary to §22-14.

PREMISES AFFECTED – 82 Lamberts Lane, southwest corner of Lamberts and Seldin Avenue, Block 1609, Lot 16, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam Rothkrug, Gregory Montalbano and Joe Albano.

ACTION OF THE BOARD – Laid over to June 12, 2007, at 1:30 P.M., for continued hearing.

259-06-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Ahi Ezer Congregation, owner.

SUBJECT – Application September 22, 2006 – Variance (§72-21) to permit the enlargement of an existing synagogue located in an R5 (OP) zoning district. The proposal is contrary to open space coverage (§24-11), side yards (§24-35), front yards (§24-34), height and setback (§24-50 and §24-521), parking (§25-18 and §25-31), and front yard not fully landscaped (§113-30).

PREMISES AFFECTED – 1885-1891 Ocean Parkway, a/k/a 601 Avenue S, Block 6682, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

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 June 12, 2007, at 1:30 P.M., for decision, hearing closed.

264-06-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Miriam Schwartz and Michael Schwartz, owners.

SUBJECT – Application September 26, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (§23-141(a)); lot coverage (§23-141(b)); side yard (§23-461) and rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1632 East 28th Street, East 28th Street between Avenue P and Quentin Road, Block 6790, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

For Opposition: Jack H. Cooperman and Sol Mermelsion.

ACTION OF THE BOARD – Laid over to June 5, 2007, at 1:30 P.M., for an adjourned hearing.

318-06-BZ

APPLICANT– Eric Palatnik, P.C., for Sun Company, Inc., owner.

SUBJECT – Application September 27, 2006 – Special Permit (§11-411) seeking to re-instate a previous BSA approval issued to the premises permitting the continued use as an automotive service station (use group 16) located in a R-4 zoning district.

PREMISES AFFECTED – 49-05 Astoria Boulevard, northeast corner of Astoria Boulevard and 49th Street, Block 1000, Lot 35, Borough of Queens.

COMMUNITY BOARD #1Q

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 May 22, 2007, at 1:30 P.M., for decision, hearing closed.

43-06-BZ

APPLICANT– Law Office of Fredrick A. Becker, for Emmanuel Charismatic Church, owner.

SUBJECT – Application March 13, 2006 – Zoning variance under §72-21 to allow a proposed house of worship to violate requirements for lot coverage (§24-11), front wall height (§24-521), front yard (§24-34), side yards (§24-35(a)), and accessory parking (§25-31). R5 district.

PREMISES AFFECTED – 31-09 35th Avenue, north side of 35th Avenue, 80' 10" east of 31st Street, Block 608, Lots 3 and 4, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Fredrick A. Becker, Melguisedee Quintero and Evelyn M. Acevedo,

ACTION OF THE BOARD – Laid over to June 12, 2007, at 1:30 P.M., for continued hearing.

212-06-BZ

APPLICANT– Jeffrey A. Chester, for AAC Douglaston Plaza, LLC, owner.

SUBJECT – Application August 22, 2006 – Variance (§72-21) to convert an existing supermarket (Use Group 6) into an electronics store with no limitation in floor area (Use Group 10). The Premises is located in an R4 zoning district. The proposal is contrary to §22-10.

PREMISES AFFECTED – 242-02 61st Avenue, Douglaston Parkway and 61st Avenue, Block 8286, Lot 185, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Jeffrey Chester, Robert Pauls and Rudy Klofsman.

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For Opposition: Peter Bovdovyas (State Senator Frand Padavan), Charles Duffy (Deep Dale Gardens)

ACTION OF THE BOARD – Laid over to July 10, 2007, at 1:30 P.M., for continued hearing.

308-06-BZ

APPLICANT– Eric Palatnik, P.C., for David Levitan, owner.

SUBJECT – Application November 22, 2006 – Special Permit (§73-622) for the enlargement of two semi-attached single family homes to be converted to a detached single family home. This application seeks to vary open space and floor area (§23-141(a)) and rear yard (§23-47) in R-2 zoning district.

PREMISES AFFECTED – 1458-1460 East 26th Street, between Avenue “N” and Avenue “O”, Block 7679, Lots 77 & 79, Borough Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to June 19, 2007, at 1:30 P.M., for continued hearing.

322-06-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for Hamid Kavian, owner.

SUBJECT – Application December 13, 2006 – Variance (§ 72-21) to permit the construction of a two family dwelling on a vacant lot with less than the required side yards contrary to ZR § 23-48 in an R3-2 zoning district.

PREMISES AFFECTED – 117-57 142nd Place, east side of 142nd Place, between 119th Road and Foch Boulevard, Block 12015, Lot 317, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD – Laid over to June 12, 2007, at 1:30 P.M., for continued hearing

72-07-BZ

APPLICANT– Sheldon Lobel, P.C. for Iren Israel Laniado, owner.

SUBJECT – Application March 28, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space, lot coverage and floor area (§23-141); side yard (§23-461); rear yard (§23-47) and perimeter wall height (§23-631) in an R3-2 zoning district.

PREMISES AFFECTED – 1941 East 26th Street, eastern side of 26th Street between Avenue S and Avenue T, Block 7305, Lot 70, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to June 12, 2007, at 1:30 P.M., for continued hearing

Jeff Mulligan, Executive Director

Adjourned: 4:45 P.M.