
BULLETIN

OF THE
NEW YORK CITY BOARD OF STANDARDS
AND APPEALS

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241-09-BZY

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242-09-A

75 First Avenue, corner lot on the west side of First Avenue between East 4th Street and East 5th Street., Block 446, Lot(s) 29,32, Borough of **Manhattan, Community Board: 3.** Appeal for common law vested rights to continue development under the prior zoning. R7A/C2-5 district.

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

CALENDAR

SEPTEMBER 15, 2009, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 15, 2009, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

590-76-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Cinfiors Limited, owners.

SUBJECT – Application September 15, 2009 – Extension of Term of a previously granted Variance (72-01(b)) for an existing illuminated sign that exceeds the permitted height above curb level. C2-8 zoning district.

PREMISES AFFECTED – 243 East 59th Street, northwest corner of 59th Street and Second Avenue, Block 1414, Lot 120, Borough of Manhattan.

COMMUNITY BOARD #8M

1259-79-BZ

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

SUBJECT – Application August 13, 2009 – Extension of Time to complete construction and obtain a certificate of occupancy and Waiver of the Rules of a previously granted Variance (72-21) for the conversion of all floors above the first floor from manufacturing lofts into residential dwellings which expired on October 6, 1984.

M1-6 zoning district.

PREMISES AFFECTED – 29 West 26th Street, north side of West 26th Street, 350' east of Sixth Avenue, Block 826, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #5M

297-99-BZ

APPLICANT – Walter T. Gorman, P.E., for Bell & Northern Bayside Company, LLC, owner; ExxonMobil Corporation, lessee.

SUBJECT – Application June 1, 2009 – Extension of Term and Waiver of the Rules for the continued use of a Gasoline Service Station (Mobil) which expires on September 19, 2010. C2-2/R-6B zoning district.

PREMISES AFFECTED – 45-05 Bell Boulevard, east side blockfront between Northern Boulevard and 45th Road, Block 7333, Lot 201, Borough of Queens.

COMMUNITY BOARD #11Q

239-07-BZ

APPLICANT – New York City Board of Standards and Appeals

YHA New York Inc.

SUBJECT – Application for dismissal for lack of prosecution – Extension of Term/Waiver (32-31 & 73-36) to reopen and extend the term for a Physical Cultural Establishment.

PREMISES AFFECTED – 57-38 Waldron Street, Block 1959, Lot 27, Borough of Queens.

COMMUNITY BOARD # 4Q

APPEALS CALENDAR

38-09-A

APPLICANT – Benjamin Lam, for Lee Zhen Xiang, owner.

SUBJECT – Application March 6, 2009 – Proposed construction of a 3 family home located within the bed of mapped street contrary to General City Law, Section 35. R-5 Zoning district.

PREMISES AFFECTED – 72-45 43rd Avenue, corner of 43rd Avenue and 74th Street, Block 1353, Lot 46, Borough of Queens.

COMMUNITY BOARD #4Q

170-09-A

APPLICANT – NYC Department of Buildings

OWNER - Kenbridge Realty Corporation

SUBJECT – Application April 3, 2009 – An appeal filed by the Department of Buildings seeking to amend the Certificate of Occupancy No. 400942655 issued on May 2, 2002 to remove the reference to "Adult" Establishment "use on the second floor. M1-5/R-9 Special Mixed Use.

PREMISES AFFECTED – 24-03 Queens Plaza North, northeast corner of Queens Plaza North and 24th Street, Block 414, Lot 5, Borough of Queens.

COMMUNITY BOARD #1Q

181-09-A

APPLICANT – Fire Department of New York, for Koppelman Management, owner; Alexander and Sons Upholstery, lessees.

SUBJECT – Application June 1, 2009 – Appeal from the Fire Department seeking a Modification of Certificate of Occupancy No. 79367 to require an approved Automatic Wet Sprinkler system throughout the cellar and first floor of a commercial use. R8 Zoning District.

PREMISES AFFECTED – 410 East 64th Street, Block 1458, Lot 41, Borough of Manhattan.

COMMUNITY BOARD #8M

Jeff Mulligan, Executive Director

CALENDAR

SEPTEMBER 15, 2009, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 15, 2009, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

186-08-BZ

APPLICANT – Petrus Fortune, P.E., for Kevin Mast, Chairman, Followers of Jesus Mennonite Church, owner.
SUBJECT – Application July 10, 2008 – Special Permit (§73-19) to allow the legalization and enlargement of a school in a former manufacturing building. The proposal is contrary to ZR Section 42-10, M1-1 district.
PREMISES AFFECTED – 3065 Atlantic Avenue, northwest corner of Atlantic Avenue and Shepherd Avenue, Block 3957, Lot 45, Borough of Brooklyn.
COMMUNITY BOARD #5BK

187-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation and Yeshiva Machzikei Hadas, Inc., owner.
SUBJECT – Application July 11, 2008 – Variance (§72-21) to permit the construction of a six-story community facility building. The proposal is contrary to ZR Section 42-00. M2-1 zoning district.
PREMISES AFFECTED – 1247 38th Street, east side of 38th Street, between 13th and 12th Avenue, Block 5295, Lot 52, Borough of Brooklyn.
COMMUNITY BOARD #12BK

198-09-BZ

APPLICANT – Eric Palatnik, P.C., for Chelsea Lofts Corp., owner; Personal Training Institute, lessee.
SUBJECT – Application June 29, 2009 – Special Permit (§73-36) to allow the operation of the proposed physical culture establishment on the first floor of an eight-story building. C6-3A zoning district.
PREMISES AFFECTED – 143 West 19th Street, between Sixth and Seventh Avenues, Block 795, Lot 14, Borough of Manhattan.
COMMUNITY BOARD #4M

226-09-BZ

APPLICANT – Mitchell S. Ross, Esq., for Fraydun Enterprises, LLC, owner; New York Health and Racquet Club, lessee.
SUBJECT – Application June 19, 2009 – Special Permit (73-36) to allow the legalization of a physical culture establishment on the cellar through second floors of a six-story mixed-use building. C6-1 zoning district.
PREMISES AFFECTED – 24 East 13th Street, south side of East 13th Street, 142'-2 & 3/4" west of University Place, Block 570, Lot 17, Borough of Manhattan.
COMMUNITY BOARD #2M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, AUGUST 18, 2009
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

709-55-BZ

APPLICANT – Walter T. Gorman, P.E., for LMT Realty Company, owner; ExxonMobil Oaks Corporation, lessee.

SUBJECT – Application May 21, 2009 – Extension of Time to obtain a certificate of occupancy for a Gasoline Service Station (*Mobil*) which expired on March 24, 2009. C1-2/R4 zoning district.

PREMISES AFFECTED – 2000 Rockaway Parkway, northwest corner of Seaview Avenue, Block 8299, Lots 68 and 63, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Cindy Bachan.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of term for the continued use of a gasoline service station, which expires on February 2, 2010; and

WHEREAS, a public hearing was held on this application on July 21, 2009, after due notice by publication in *The City Record*, and then to decision on August 18, 2009; and

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application on the condition that there not be overnight parking, a lubritorium, or a tire shop at the site; and

WHEREAS, the site is located on the northwest corner of Rockaway Parkway and Seaview Avenue, in a C1-2 (R4) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 2, 1960 when, under the subject calendar number, the Board granted a variance to permit the premises to be occupied by a gasoline service station with accessory uses for a term of 20 years; and

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

WHEREAS, most recently, the grant was extended on January 9, 2001 for a term of ten years from the expiration of the prior grant, to expire on February 2, 2010; and

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

WHEREAS, at hearing, the Board directed the applicant to revise the site plans to reflect a no parking sign on the Seaview Avenue frontage and to revise the sign analysis to include all promotional signs; and

WHEREAS, in response, the applicant revised the site plan and sign analysis to reflect the noted conditions; and

WHEREAS, the Board notes that the sign analysis reflects complying signage; and

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

WHEREAS, based upon the above, 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 *reopens* and *amends* the resolution, dated February 2, 1960, so that as amended this portion of the resolution shall read: “to extend the term for ten years from February 2, 2010, to expire on February 2, 2020; *on condition* that all use and operations shall substantially conform to plans filed with this application marked “Received August 3, 2009” – (6) sheets; and *on further condition*:

THAT the term of the grant shall expire on February 2, 2020;

THAT the above condition shall appear on the certificate of occupancy;

THAT a new certificate of occupancy shall be obtained by February 18, 2010;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 320020240)

Adopted by the Board of Standards and Appeals August 18, 2009.

12-94-BZ

APPLICANT – New York City Board of Standards and Appeals

S. Kilgor for Mario KoKKonis

SUBJECT – Application for dismissal for lack of prosecution – Extension of Term and Extension of Time to obtain a Certificate of Occupancy for a special permit (§73-36) for a physical cultural establishment (*American Physique*), which expired on July 19, 2004. C2-2/R4 zoning district.

PREMISES AFFECTED – 245-13 Jamaica Avenue, north side of Jamaica Avenue and 245th Street, Block 8659, Lot 1, Borough of Queens.

COMMUNITY BOARD # 13Q

APPEARANCES – None.

ACTION OF THE BOARD – Application dismissed.

THE VOTE TO DISMISS –

MINUTES

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application requesting a waiver of the Rules of Practice and Procedure, a reopening, an extension of term, and an extension of time to obtain a certificate of occupancy for a physical culture establishment within a C2-2 (R4) zoning district; and

WHEREAS, on July 19, 1994, under the subject calendar number, the Board granted a special permit under ZR § 73-36, to permit a physical culture establishment in the cellar and on the first floor of an existing one-story commercial building, which expired on July 19, 2004; and

WHEREAS, on June 3, 2008, the applicant filed the subject application for an extension of the expired term and an extension of time to obtain a certificate of occupancy; and

WHEREAS, on August 11, 2008, Board staff issued a Notice of Comments; and

WHEREAS, in August 2008 the applicant contacted Board staff to discuss the Notice of Comments; and

WHEREAS, however, the Board did not receive any subsequent response from the applicant; and

WHEREAS, in December 2008, Board staff contacted the applicant to request a response to the Notice of Comments; and

WHEREAS, in March 2009, Board staff again contacted the applicant to discuss the deficiencies of the application; and

WHEREAS, the Board did not receive any additional information; and

WHEREAS, on April 22, 2009, Board staff issued a Dismissal Notice stating that if the applicant failed to fully respond to the Notice of Comments within 30 days, it would schedule a dismissal hearing; and

WHEREAS, the applicant failed to submit any additional information; and

WHEREAS, accordingly, the Board placed the subject case on the August 18, 2009 dismissal calendar; and

WHEREAS, on July 17, 2009, the Board sent the applicant a letter stating that the case had been placed on the August 18, 2009 dismissal calendar; and

WHEREAS, the applicant failed to submit any additional information; and

WHEREAS, the applicant failed to appear at the August 18, 2009 hearing; and

WHEREAS, accordingly, because of the applicant's failure to prosecute this application, it must be dismissed in its entirety.

Therefore it is Resolved that the application filed under BSA Cal. No. 12-94-BZ is hereby dismissed for lack of prosecution.

Adopted by the Board of Standards and Appeals, August 18, 2009.

384-03-BZ

APPLICANT – New York City Board of Standards and Appeals.

Anthony Somefun.

SUBJECT – Application for dismissal for lack of prosecution – To be withdrawn and filed as a special permit for parking for parking reduction pursuant to (§73-44) for the second and third floors of a commercial space.

PREMISES AFFECTED – 804-816 East 138th Street, south side of East 138th Street, 155.82' east of corner formed by East 138th Street and Willow Avenue, Block 2589, Lot 16, Borough of Bronx.

COMMUNITY BOARD #1BX

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

Adopted by the Board of Standards and Appeals, August 18, 2009.

128-04-BZ

APPLICANT – Marvin B. Mitzner, Esq., for Park East Day School, Incorporated, owner.

SUBJECT – Application June 24, 2009 – Extension of Time to complete construction; Extension of Time to obtain a certificate of occupancy; and Waiver of the Rules for a previously granted Variance (§72-21) for the enlargement of an existing school which expired on December 14, 2008. R8B zoning district.

PREMISES AFFECTED – 162-168 East 68th Street, south side of East 68th Street, 100' west of Third Avenue, Block 1402, Lots 41 & 42, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Ian Rasmussen.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and extension of time to complete construction and obtain a certificate of occupancy for the enlargement of an existing school (the Park East Day School); and

WHEREAS, a public hearing was held on this application on July 28, 2009, after due notice by publication in *The City Record*, and then to decision on August 18, 2009; and

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

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WHEREAS, the site is located on the south side of East 68th Street, between Lexington Avenue and Third Avenue, within an R8B zoning district; and

WHEREAS, the subject site comprises two tax lots (Lots 41 and 42); and

WHEREAS, on February 20, 1973, under BSA Cal. No. 658-72-BZ, the Board granted a variance to permit the construction of an eight-story building on Lot 42, which resulted in non-compliances as to lot coverage, rear yard, and sky exposure plane requirements of the then applicable C1-8 (R8) zoning district regulations; and

WHEREAS, on December 14, 2004, under the subject calendar number, the Board granted a variance to permit an enlargement of the existing school building (Use Group 3) onto Lot 41, which resulted in non-compliances as to height and setback, floor area, lot coverage, and rear yard setback; and

WHEREAS, substantial construction was to be completed by December 14, 2008, in accordance with ZR § 72-23; and

WHEREAS, the applicant represents that construction has been delayed since the date of the Board's grant, and that the owner expects to commence construction in approximately 18 months; and

WHEREAS, thus, the applicant requests an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, based upon its review of the record, the Board finds that the proposed extension of time to complete construction and obtain a certificate of occupancy is 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 14, 2004, so that as amended this portion of the resolution shall read: "to permit an extension of time to complete construction and obtain a certificate of occupancy for a term of four years from the date of this grant, to expire on August 18, 2013; *on condition*:

THAT substantial construction shall be completed by February 18, 2013;

THAT a Certificate of Occupancy shall be obtained by August 18, 2013;

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

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

(DOB Application No. 103412807)

Adopted by the Board of Standards and Appeals, August 18, 2009.

23-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Kehilat Sephardim of Ahavat Achim, owners.

SUBJECT – Application April 7, 2009 – Extension of Time to Complete Construction, which expired on July 2, 2008, Extension of Time to obtain a certificate of occupancy, which expired on January 2, 2009, and Waiver of the Rules for a previously granted Variance (§72-21) for the expansion of an existing three story synagogue with accessory Rabbi's apartment. R-4 zoning district.

PREMISES AFFECTED – 150-62 78th Road, southeast corner of the intersection formed by 78th Road and 153rd Street, Block 6711, Lot 84, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

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 time to complete construction of and obtain a certificate of occupancy for an enlargement to a three-story synagogue (Use Group 4), which expired on January 2, 2009; and

WHEREAS, a public hearing was held on this application on May 12, 2009, after due notice by publication in *The City Record*, with continued hearings on June 9, 2009, June 23, 2009, and July 28, 2009, and then to decision on August 18, 2009; and

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

WHEREAS, the subject site is located on the southwest corner of 78th Road and 153rd Street, in an R4 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 2, 2007 when, under the subject calendar number, the Board granted a variance to permit the legalization of an enlargement of an existing three-story residential building and its conversion to a Use Group 4 synagogue, which resulted in non-compliances as to front and side yards; and

WHEREAS, substantial construction was to be completed within nine months of the date of the grant (by July 2, 2008) and a new certificate of occupancy to be obtained within 15 months of the date of the grant (by January 2, 2009); and

WHEREAS, the applicant represents that DOB issued a partial vacate order and would not issue any work permits until the applicant has secured additional time to complete construction and obtain a certificate of occupancy; and

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WHEREAS, thus, the applicant requests a one-year extension of time to complete construction and an additional six months to obtain a certificate of occupancy; and

WHEREAS, the Board directed the applicant to provide a timeframe, including a description of all work to be performed and copies of agreements with contractors; and

WHEREAS, the Board also requested details about the installation of the required fire safety mechanisms and asked if a public assembly permit was required; and

WHEREAS, in response, the applicant provided (1) a letter from the project expediter who estimates that the remaining work, including filing applications, obtaining approvals and permits, and filing a public assembly application can be completed within ten to twelve months; (2) a letter from the project contractor stating that the remaining work, including shed removal, wall removal, façade repair, and plantings, will be completed within twelve months; and (3) a letter from another expediter confirming that it has been retained to resolve all outstanding violations against the building, which it expects to be completed in eight to ten months; and

WHEREAS, as to fire safety measures, the applicant submitted a Certificate of Fitness from Briscoe Protective Systems, Inc. certifying that on July 10, 2009, the electronic interconnected fire alarm and smoke detection was inspected and all devices were in operating condition; and

WHEREAS, additionally, the applicant provided a contract executed with Briscoe, which reflects services for equipment and extinguisher inspection, and repair; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated October 2, 2007, so that as amended this portion of the resolution shall read: “to grant an extension of the time to complete construction for a term of one year from the date of this grant, to expire on August 18, 2010 and to obtain a certificate of occupancy by February 18, 2011; *on condition*:

THAT construction shall be completed by August 18, 2010;

THAT a certificate of occupancy be obtained by February 18, 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. 410221433)

Adopted by the Board of Standards and Appeals, August 18, 2009.

441-31-BZ

APPLICANT – Ian Peter Barnes, IPB Associates, for Gurdev Singh Kang, owner.

SUBJECT – Application April 24, 2009 – Extension of Term/waiver for a Gasoline Service Station with accessory convenience store in a C2-2/R5 zoning district which expired on April 26, 2007.

PREMISES AFFECTED – 7702 Flatlands Avenue, southeast corner of Flatlands Avenue and East 77th Street, Block 8014, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Ian Peter Barnes.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to September 15, 2009, at 10 A.M., for decision, hearing closed.

32-91-BZ

APPLICANT – Walter T. Gorman, P.E., for Fulvan Realty Corporation, owner; Fulton Auto Repair Incorporated, lessee.

SUBJECT – Application May 5, 2009 – Extension of Term and waiver of a Special Permit for a (UG16) Gasoline Service Station (Coastal) in a C2-4/R7A zoning district which expired on May 19, 2007.

PREMISES AFFECTED – 838/846 Fulton Street, south east corner of Vanderbilt Avenue, Block 2010, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Cindy Bachan.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to October 6, 2009, at 10 A.M., for decision, hearing closed.

55-97-BZ

APPLICANT – Sheldon Lobel, P.C. for Baker Tripi Realty, owner.

SUBJECT – Application March 18, 2009 – Extension of term filed pursuant to §11-411 of the Zoning Resolution requesting an extension of the term of a variance previously granted by the Board of Standards and Appeals and an extension of time to obtain a certificate of occupancy allowing the continued operation of an automotive repair shop (Use Group 16) located in a C2-2/R3-2 zoning district.

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The previous term expired on September 23, 2007.
PREMISES AFFECTED – 76-36 164th Street, southwest corner of the intersection formed by 164th Street and 76th Road. Block 6848, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Elizabeth Safian.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to September 15, 2009, at 10 A.M., for decision, hearing closed.

327-04-BZ

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

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

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

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Elizabeth Safian.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to September 15, 2009, at 10 A.M., for decision, hearing closed.

5-96-BZ

APPLICANT – New York City Board of Standards and Appeals.

Sheldon Lobel, P.C.

SUBJECT – Application for dismissal for lack of prosecution – Extension of Time/Waiver of Term & Time (11-411) reopen, waive and extend the time of 10 years.

PREMISES AFFECTED – 564/92 St. John's Place, South side of Saint John's Place approximately 334' west of Classon Avenue, Block 1178, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 10 A.M., for continued hearing.

APPEALS CALENDAR

318-08-A

APPLICANT – Joseph A. Sherry, for Ralph Richardson, owner.

SUBJECT – Application December 31, 2008 – Proposed enlargement of a commercial use located within the bed of a mapped street contrary to General City Law Section 35. C8-1 zoning district.

PREMISES AFFECTED – 1009 Beach 21st Street, north west corner of Cornaga Avenue, Block 15705, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Loretta Papa.

ACTION OF THE BOARD – Laid over to September 22, 2009, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: 11:00A.M.

REGULAR MEETING

TUESDAY AFTERNOON, AUGUST 18, 2009

1:30 P.M.

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

ZONING CALENDAR

288-08-BZ

CEQR #09-BSA-045R

APPLICANT – Jeffrey Geary, for Vincent Passarelli, owner; Roland Costanzo, lessee.

SUBJECT – Application November 21, 2008 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*Costanzo's Martial Arts Studio*) on the second floor of a two-story commercial building. M1-1 zoning district.

PREMISES AFFECTED – 2955 Veterans Road West, Cross Streets, Tyrellian Avenue and West Shore Parkway, Block 7511, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Jeffrey Geary.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

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Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated June 3, 2009, acting on Department of Buildings Application No. 510031831, reads in pertinent part:

“ZR 42-10. Obtain BSA special permit per ZR 73-36 for operation of physical culture establishment;”
and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, the legalization of a physical culture establishment (PCE) on the second floor of a two-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on June 16, 2009 after due notice by publication in *The City Record*, with a continued hearing on July 21, 2009, and then to decision on August 18, 2009; and

WHEREAS, Community Board 3, Staten Island, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of Veterans Road West between West Shore Parkway and Tyrellan Avenue, within an M1-1 zoning district; and

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

WHEREAS, the PCE has a total floor area of 2,640 sq. ft. on the second floor of the subject building; and

WHEREAS, the PCE is operated as Costanzo’s Martial Arts; and

WHEREAS, the proposed hours of operation are: Monday through Friday, from 9:00 a.m. to 7:00 p.m.; and Saturday and Sunday, from 9:00 a.m. to 1:00 p.m.; and

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

WHEREAS, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

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

WHEREAS, the Board notes that the PCE has been in operation since May 1, 2008 without a special permit; and

WHEREAS, accordingly, the Board has determined that the term of the grant shall be reduced for the period of

time between May 1, 2008 and the date of this grant; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 09BSA054R, dated June 9, 2009; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, the legalization of a physical culture establishment on the second floor of an existing two-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received July 21, 2009”- Two (2) sheets and *on further condition*:

THAT the term of this grant shall expire on May 1, 2018;

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

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

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

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

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

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

MINUTES

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, August 18, 2009.

13-09-BZ

CEQR #09-BSA-060K

APPLICANT – Moshe M. Friedman, P.E., for 5621 21st Avenue LLC, for Congregation Tehilos Yitzchok, owner.
SUBJECT – Application January 26, 2009 – Variance (§72-21) to permit a synagogue contrary to front yard, side yard and lot coverage regulations (§24-34, §24-35, §24-11). R5 zoning district.

PREMISES AFFECTED – 5611 21st Avenue, east side 95’-8” north of intersection of 21st Avenue and 57th Street, Block 5495, Lot 430, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Moshe Friedman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 1, 2009, acting on Department of Buildings Application No. 302065011, reads in pertinent part:

“Proposed synagogue and rectory (UG 4) in an R5 district is contrary to:
ZR 24-34 Front Yard
ZR 24-35 Side Yard
ZR 24-11 Lot Coverage

And requires a variance from the Board of Standards and Appeals as per Section 72-21;” and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21, to permit, on a site within an R5 zoning district, the construction of a three-story community facility building to be occupied by a synagogue (Use Group 4) and accessory Rabbi’s residence, which does not comply with front yard, side yard, and lot coverage requirements for community facilities, contrary to ZR §§ 24-34, 24-35 and 24-11; and

WHEREAS, a public hearing was held on this application on June 16, 2009, after due notice by publication in *The City Record*, with a continued hearing on July 21, 2009, and then to decision on August 18, 2009; and

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

WHEREAS, Community Board 12, Brooklyn, recommends approval of the application; and

WHEREAS, certain members of the community provided testimony in opposition to the proposal, raising concerns about

potential parking demand and traffic generated by the proposed building; and

WHEREAS, this application is brought on behalf of Congregation Tehilos Yitzchok, a non-profit religious entity (the “Synagogue”); and

WHEREAS, the subject premises is located on the south side of 21st Avenue, 95’-8” east of 57th Street, within an R5 zoning district, and has a lot area of approximately 2,325 sq. ft.; and

WHEREAS, the subject site is currently vacant; and

WHEREAS, the site was part of a parcel of land that was subdivided into a residential development which was approved by the Department of Buildings (“DOB”) for 13 three-family homes on separate zoning lots; and

WHEREAS, only 12 of the 13 three-family homes were built and the subject lot remains vacant; and

WHEREAS, the proposal provides for a synagogue building with the following parameters: 4,224 sq. ft. of floor area (4,651 sq. ft. is the maximum permitted); an FAR of 1.82 (2.0 is the maximum permitted), a lot coverage of 66 percent (55 percent is the maximum permitted); a front yard of 5’-0” (a front yard of 10’-0” is required); side yards of 4’-0” each along the eastern and western lot lines, respectively, and no side yard along the southern lot line (three 8’-0” side yards are required); and

WHEREAS, the proposal provides for the following uses: (1) offices, a library, and a mikvah at the cellar level; (2) a synagogue on the first floor; (3) a synagogue balcony and Rabbi’s study on the second floor; and (3) an accessory Rabbi’s residence on the third floor; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to accommodate the current congregation of approximately 35 members, and the future growth in the congregation’s membership; (2) to provide separate and private entrances to the Synagogue for men and women; and (3) to provide a residence for the Synagogue’s Rabbi; and

WHEREAS, the applicant further states that the congregation currently worships in the Rabbi’s home in the above-mentioned residential development, which is inadequate to serve the current congregation and cannot be expanded; and

WHEREAS, the applicant represents that the congregation expects its membership to grow to 86 people, based on projected increases in family sizes and new members that are anticipated to join the congregation; and

WHEREAS, the applicant states that Jewish Law requires the Synagogue to have separate, private entrances for the men and women of the congregation; and

WHEREAS, the applicant represents that the proposed building can accommodate the religious services and programs of the Synagogue and will better accommodate the size of its congregation; and

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

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

WHEREAS, the applicant provided a submission briefing the prevailing New York State case law on religious deference; and

WHEREAS, the Board notes that under well-established precedents of the courts, a Rabbi's residence on the site of a religious institution is construed to be a religious use entitled to deference by a zoning board (see Jewish Recon. Syn. v. Vill. of Roslyn, 38 N.Y.2d 283 (1975)); and

WHEREAS, the applicant states that, in addition to its programmatic needs, the following unique physical condition creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the site's irregular shape; and

WHEREAS, the applicant states that the proposed floor area, which complies with zoning district regulations, cannot be accommodated within the as-of-right yard and lot coverage parameters and allow for efficient floor plates that would accommodate the Synagogue's programmatic needs, thus necessitating the requested waivers of these provisions; and

WHEREAS, specifically, the subject site has a width of 28'-8 1/2", a depth of 98'-3 1/2" along the eastern lot line, and a depth of 64'-8" along the western lot line; and

WHEREAS, the applicant states that side yards with minimum widths of eight feet would be required along the eastern and western lot lines for a complying community facility building in the subject zoning district; and

WHEREAS, the applicant represents that due to the side yard requirements, a complying community facility building would have a width of 12'-6", which is too narrow to accommodate more than 22 congregants, and would not provide reasonable space for the Rabbi's residence on the second floor; and

WHEREAS, the applicant states that a front yard with a depth of ten feet and a side yard with a width of eight feet along the southern lot line would also be required for a complying community facility building on the subject site; and

WHEREAS, the applicant represents that due to the yard requirements, a complying community facility building would provide space for a maximum of 38 congregants, and therefore could not accommodate the future growth of the congregation; and

WHEREAS, therefore, the applicant represents that the requested waivers are necessary to enable the Synagogue to develop a building with viable floor plates; and

WHEREAS, based upon the above, the Board finds that the aforementioned physical conditions, when considered in conjunction with the programmatic needs of the Synagogue, create unnecessary hardship and practical

difficulty in developing the site in compliance with the applicable zoning regulations; and

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

WHEREAS, the applicant represents that the 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 that the proposed use and floor area are permitted in the subject zoning district; and

WHEREAS, the applicant further states that the two side yards along the eastern and western lot lines have widths of four feet each, which is consistent with a complying residential development, as per ZR § 23-146; and

WHEREAS, the applicant further states that the subject site's eastern lot line is adjacent to open space occupied by a cemetery; and

WHEREAS, the applicant submitted a 400-foot radius diagram establishing that the bulk and height of the proposed Synagogue are consistent with the bulk and height of the homes in the surrounding neighborhood, which have heights ranging between one and four stories; and

WHEREAS, at hearing, members of the community raised concerns that the Synagogue will generate increased vehicular traffic and that no off-street parking spaces are provided in the proposal; and

WHEREAS, as to traffic and parking impacts, the applicant noted that the impacts would be minimal as the entire congregation lives within three-quarters of a mile from the subject site and would walk to services, specifically to worship services on Fridays and Saturdays when they are not permitted to drive; and

WHEREAS, the applicant further notes that the Synagogue is located in an R5 zoning district, and a waiver pursuant to ZR § 25-33 is permitted if fewer than ten spaces are required; and

WHEREAS, the applicant represents, and the Board agrees, that based on the applicable formula and the rated capacity of the largest room of assembly, four parking spaces would be required, thereby qualifying the Synagogue for a waiver under ZR § 25-33; thus, the Synagogue is not required to provide any off-street parking; and

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

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

WHEREAS, the applicant further states that the subject lot was created as part of a residential development for 13 three-family homes filed and approved by DOB as

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per ZR § 23-146; and

WHEREAS, in support of this statement, the applicant submitted the New Building applications approved by DOB for all 13 homes, including one on the subject site, and a zoning lot certification documenting that the subject lot is both a tax lot and a zoning lot; and

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

WHEREAS, the Board notes that the development of the proposed Synagogue is entirely as-of-right, with the exception of the non-compliant front yard, side yards and lot coverage; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.12 (aj) and 617.5; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review 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 R5 zoning district, the construction of a three-story community facility building to be occupied by a synagogue, which does not comply with front yard, side yard, and lot coverage requirements for community facilities, contrary to ZR §§ 24-34, 24-35 and 24-11, *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 July 7, 2009"–(13) sheets; and *on further condition*:

THAT the building parameters shall be: a floor area of 4,224 sq. ft.; an FAR of 1.82; a front yard with a depth of 5'-0"; and two side yards with widths of 4'-0" along the eastern and western lot lines;

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

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

THAT no commercial catering shall take place onsite;

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

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

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

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

THAT the Department of Buildings must ensure

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

Adopted by the Board of Standards and Appeals, August 18, 2009.

171-09-BZ

CEQR #09-BSA-110M

APPLICANT – James Chin & Associates, LLC, for Chong Duk Chung, owner.

SUBJECT – Application May 15, 2009 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*Integree Spa & Beauty*) on a portion of the first floor in an existing 42-story mixed-use building. C5-2 zoning district.

PREMISES AFFECTED – 325 Fifth Avenue, east side of 5th Avenue, 64.3' from the corner of East 32nd and 5th Avenue, Block 862, Lot 7503, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Mindy Chin.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Superintendent, dated August 12, 2009, acting on Department of Buildings Application No. 110444163, reads in pertinent part:

“Physical culture establishment is not permitted as of right in C5-2 district and is contrary to ZR 32-31. Apply to BSA for issuance of a special permit pursuant to ZR 32-30. BSA special permit for ‘physical culture establishment’ as per ZR 73-36;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-2 zoning district, the legalization of a physical culture establishment (PCE) on the first floor of a 42-story mixed-use commercial/residential building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on July 21, 2009 after due notice by publication in *The City Record*, and then to decision on August 18, 2009; and

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

WHEREAS, the subject site is located on the east side of Fifth Avenue between East 32nd Street and East 33rd Street, in a C5-2 zoning district; and

WHEREAS, the site is occupied by a 42-story mixed-use commercial/residential building; and

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WHEREAS, the PCE has a total floor area of 1,760 sq. ft. on the first floor; and

WHEREAS, the PCE is operated as Integree Spa & Beauty; and

WHEREAS, the proposed hours of operation are: Monday through Saturday, from 8:00 a.m. to 10:00 p.m.; and Sunday, from 9:30 a.m. to 8:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for the practice of massage; and

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

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

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

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

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

WHEREAS, the Board notes that the PCE has been in operation since November 1, 2007 without a special permit; and

WHEREAS, accordingly, the Board has determined that the term of the grant shall be reduced for the period of time between November 1, 2007 and the date of this grant; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 09BSA110M, dated July 8, 2009; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-2 zoning district, the legalization of a physical culture establishment on the first floor of an existing 42-story mixed-use commercial/residential building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "August 17, 2009"- One (1) sheet; and *on further condition*:

THAT the term of this grant shall expire on November 1, 2017;

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

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

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

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

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

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, August 18, 2009.

220-07-BZ

APPLICANT – Moshe M. Friedman, P.E., for Relly Bodansky, owner.

SUBJECT – Application September 25, 2007 – Variance (§72-21) to allow the erection of a new 4-story residential building containing 4 dwelling units on a site containing an existing legal, nonconforming 3-story multiple dwelling which is proposed to be razed; contrary to use regulations (§42-10). M1-1 district.

PREMISES AFFECTED – 847 Kent Avenue, east side of Kent Avenue, 300' north of intersection of Kent Avenue and Myrtle Avenue, Block 1898, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Moshe Friedman.

ACTION OF THE BOARD – Laid over to

MINUTES

September 22, 2009 at 1:30 P.M., for deferred decision.

100-08-BZ & 101-08-A

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Cee Jay Real Estate Development Company, owner.

SUBJECT – Application April 21, 2008 – Variance (§72-21) for the construction of a two story with basement, single family residence on a irregularly shaped vacant lot that extends into a mapped, unbuilt street which is contrary to General City Law Section 35. This application seeks to vary front yard (§23-45) in an R3-2 zoning district.

PREMISES AFFECTED – 205 Wolverine Street, northwest of intersection of Wolverine Street and Thomas Street, Block 4421, Lot 167, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Todd Dale.

For Opposition: Carol Donovan and Harold McGough.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 1:30 P.M., for continued hearing.

220-08-BZ

APPLICANT – Moshe M. Friedman, for Samuel Jacobowitz, owner.

SUBJECT – Application August 28, 2008 – Variance (§72-21) to permit the renovation and enlargement of a non-conforming one-family dwelling. The proposal is contrary to ZR Section 42-10. M1-1 district.

PREMISES AFFECTED – 95 Taaffe Place, east side, 123'-3.5" south of intersection of Taaffe Place and Park Avenue, Block 1897, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Moshe M. Friedman.

ACTION OF THE BOARD – Laid over to October 27, 2009, at 1:30 P.M., for continued hearing.

249-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Gee Jay Real Estate Development Company, owner.

SUBJECT – Application October 6, 2008 – Variance (§72-21) for the construction of a single family dwelling which seeks to vary the required floor area and open space (§23-141); does not provide the required front yard (§23-45), rear yard (v23-47), side yard (§23-46) and the required off street parking (§25-622) in an R2 (LDGM) zoning district.

PREMISES AFFECTED – 130 Adelaide Avenue, west side of Adelaide Avenue, 497' south of intersection with Guyon Avenue, Block 4705, Lot 151, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Todd Dale.

For Opposition: Michael Scagnelli.

ACTION OF THE BOARD – Laid over to September 22, 2009, at 1:30 P.M., for continued hearing.

29-09-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Chabad Israeli Center, owner.

SUBJECT – Application February 23, 2009 – Variance (§72-21) to permit the use of the existing structure for a synagogue on the first floor and the enlargement of the existing detached garage for an accessory mikvah. The variance requests are for lot coverage, front yards, side yards, and parking. R3X district.

PREMISES AFFECTED – 44 Brunswick Street, northwest corner of Brunswick Street and Richmond Hill Road, Block 2397, Lot 212, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Fredrick A. Becker, Nahman Segal.

For Opposition: Anny Chan.

ACTION OF THE BOARD – Laid over to October 6, 2009, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: 3:00 P.M.