
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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November 19, 2009

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Affecting Calendar Numbers:

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DOCKET

New Case Filed Up to November 10, 2009

300-09-A

635 Highland Place, East side of Highland Place partially in the bed of mapped Beach 202nd Street., Block 16350, Lot(s) p/o 300, Borough of Queens, Community Board: 14. Construction within a bed of a mapped street, contrary to Section 35, Article 3 of the General City Law R4 district.

301-09-BZY

539 59th Street, 320.0 feet north from 5th Avenue., Block 856, Lot(s) 60, Borough of Brooklyn, Community Board: 7. Extension of Time (11-332 to complete construction under the prior zoning. R6 district.

302-09-BZ

820 39th Street, South side, 150'0" east of 8th Avenue between 8th Avenue and 9th Avenue., Block 916, Lot(s) 12, Borough of Brooklyn, Community Board: 12. Special Permit (73-50) for the rear enlargement to existing one story. M1-2 district.

303-09-BZY

517 53rd Street, Between 5th & 6th Avenue., Block 808, Lot(s) 69, Borough of Brooklyn, Community Board: 7. Extension of Time (11-332) to complete construction under the prior zoning. C4-3 district.

304-09-BZ

75-121 Junius Street, Junis Street, bounded by Glenmore Avenue and Liberty Avenue., Block 3696, Lot(s) 1,10, Borough of Brooklyn, Community Board: 16. Variance to allow a mixed use building, contrary to use regulations. M1-4 district.

305-09-BZ

110-04 Atlantic Avenue, Southeast corner of Atlantic Avenue and 110th Street., Block 9396, Lot(s) 1, Borough of Queens, Community Board: 9. Variance to permit the enlargement of an existing community facility building. C2-2/R5 district.

306-09-A

37-48 60th Street, West side of 60th Street 38th and 37th Avenues., Block 1214, Lot(s) 84, Borough of Queens, Community Board: 1. Appeal seeking to revoke the certificate of occupancy and permit were approved in error. R5 district.

307-09-BZ

1358-1360 East 28th Street, West side of East 28th Street between Avenue M and Avenue N., Block 7663, Lot(s) 73 & 75, Borough of Brooklyn, Community Board: 14. Special Permit (73-622) for the enlargement of a single family home. R2 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

NOVEMBER 24, 2009, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 24, 2009, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

389-37-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Rosemarie Fiore, Georgette Fiore and George Fiore, owner.
SUBJECT – Application June 10, 2009 – Extension of Term (§11-411) of a previously granted Variance for the operation of a UG8 parking lot which expired on June 13, 2008; Extension of Time to obtain a Certificate of Occupancy which expired on December 12, 2004 and Waiver of the Rules. R5/C1-2 zoning district.
PREMISES AFFECTED – 31-08 to 31-12 45th Street, southwest corner of 45th Street and 31st Avenue, Block 710, Lot 5, 6, 17, 18, 19, Borough of Queens.

COMMUNITY BOARD #1Q

389-85-BZ

APPLICANT – Walter T. Gorman, P.E., P.C., for ExxonMobil Corporation, owner; Mobil On The Run, lessee.
SUBJECT – Application October 5, 2009 – Extension of Time to obtain a Certificate of Occupancy for a UG16 Automotive Service Station (Mobil) which expires on December 9, 2009. C2-3/R7-1 zoning district.
PREMISES AFFECTED – 2090 Bronxdale Avenue, bounded by Brady Avenue, White Plains Road and Bronx Park East, Block 4283, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #11BX

68-03-BZ

APPLICANT – Stuart A. Klein, Esq., for Torah M. Sinai, Incorporated, owner.
SUBJECT – Application October 20, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the conversion of an existing manufacturing building to a (UG3) day care center and (UG6) office use which expired on August 10, 2008 and a Waiver of the Rules. M1-2 zoning district.
PREMISES AFFECTED – 649 39th Street, northwest corner of the intersection of 39th street and 7th Avenue, Block 903, Lot 79, 80, 83, Borough of Brooklyn.

COMMUNITY BOARD #7BK

326-04-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Sephardic Center of Mill Basin, owner.
SUBJECT – Application October 29, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a new Synagogue (Sephardic Center of Mill Basin) which expired on October 18, 2009. R-2 zoning district.
PREMISES AFFECTED – 6208-6216 Strickland Avenue, northeast corner of the intersection of Strickland Avenue and Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEALS CALENDAR

244-09-BZY

APPLICANT – Sheldon Lobel, P.C., for Polven, LLC, owner.
SUBJECT – Application August 21, 2009 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior R6/C1-3 zoning district. R6B/C2-4 Zoning District.
PREMISES AFFECTED – 175 Vanderbilt Avenue, east side of Vanderbilt Avenue and Myrtle Avenue, Block 1901, Lots 19, 20, Borough of Brooklyn.

COMMUNITY BOARD #2BK

245-09-BZY

APPLICANT – Sheldon Lobel, P.C., for Adelphi Luxury Development, LLC, owner.
SUBJECT – Application August 21, 2009 – Extension of time (§11-332) to complete construction of a minor development (11-332) commenced under the prior R6 zoning district. R6B Zoning District.
PREMISES AFFECTED – 120 Adelphi Street, west side of Adelphi Street, 252' north of the intersection of Adelphi Street and Myrtle Avenue, Block 2044, Lots 74 and 75, Borough of Brooklyn.

COMMUNITY BOARD #2BK

301-09-BZY

APPLICANT – Nelson A. Padilla, for Nelson A. Padilla, owner.
SUBJECT – Application October 29, 2009 – Extension of time (§11-332) to complete construction of an enlargement commenced prior to the text amendment on September 30, 2009. R6B Zoning district.
PREMISES AFFECTED – 539 59th Street, 320' north from 5th Avenue, Block 856, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #7BK

CALENDAR

NOVEMBER 24, 2009, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 24, 2009, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

43-09-BZ

APPLICANT – Harold Weinberg, P.E., for Paul S. Grosman, owner.

SUBJECT – Application March 10, 2009 – Special Permit (§73-19) to allow a school (Southside Charter High School) contrary to use regulations. M1-2 district.

PREMISES AFFECTED – 198 Varet Street, southside 170'-6" west of White Street, between White Street and Bushwick Avenue, Block 3117, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #1BK

224-09-BZ

APPLICANT – Sheldon Lobel, P.C., for Springfield-Hempstead Realty, LLC, owner; Walgreens Company, lessee.

SUBJECT – Application July 8, 2009 – Special Permit (§73-52) to allow for accessory commercial parking to be located in the residential portion of a split zoning lot. C2-3/R3-2 and R3-2 zoning districts.

PREMISES AFFECTED – 218-51 aka 218-59 Hempstead Avenue, Northwest corner of intersection of Hempstead Avenue, Block 10766, Lot 38, 46, 48, 51, Borough of Queens.

COMMUNITY BOARD #13Q

246-09-BZ

APPLICANT – Jordan Most of Sheldon Lobel, P.C., for Louisiana Purchase, LLC, owner.

SUBJECT – Application August 21, 2009 – Variance pursuant to ZR §72-21 to allow for the construction of a four story assisted living facility (Brooklyn Boulevard ALP) contrary to floor area, dwelling units and parking regulations (ZR §23-141 §62-321, §23-22, §25-23). R5 district.

PREMISES AFFECTED – 636 Louisiana Avenue, western side of Louisiana Avenue at its intersection with Twin Pines Drives, Block 8235, Lot 140, Borough of Brooklyn.

COMMUNITY BOARD #18BK

250-09-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP., for 532 Madison Syndicate, owner; Madison/Fifth Associates LLC c/o Stahl Real Estate, lessee.

SUBJECT – Application August 28, 2009 – Special Permit (§73-36) to allow the legalization of a physical culture establishment on the sixth and seventh floors in an existing seven-story commercial building. C5-3 (MiD) zoning district.

PREMISES AFFECTED – 532 Madison Avenue, East 54th Street, Fifth Avenue; East 55th Street, Block 1290, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #6M

Jeff Mulligan, Executive Director

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

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

SPECIAL ORDER CALENDAR

1038-80-BZ

APPLICANT – Davidoff Malito & Hatcher LLP, for Feinrose Downing LLC, owner; Expressway Arcade Corporation, lessee.

SUBJECT – Application August 28, 2009 – Extension of Term of a Special Permit for the continued operation of a UG15 Amusement Arcade (*Smile Arcade*) which expires on January 6, 2010. M2-1 zoning district.

PREMISES AFFECTED – 31-07/09/11 Downing street, Block 427, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

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, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of the term of a special permit, which expires on January 6, 2010; and

WHEREAS, a public hearing was held on this application on October 20, 2009 after due notice by publication in *The City Record*, and then to decision on November 10, 2009; and

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

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

WHEREAS, on January 6, 1981, the Board granted a special permit, under the subject calendar number, for the operation of an amusement arcade on the subject premises; and

WHEREAS, on May 13, 1986, the special permit was amended to increase the number of amusement arcade games from 112 to 130; and

WHEREAS, subsequently, the term of the special permit has been extended at various times; and

WHEREAS, most recently, on March 31, 2009, the term was extended for one year from the expiration of the prior grant, to expire on January 6, 2010; and

WHEREAS, the Board finds that the instant application is appropriate to grant, based upon the evidence submitted.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated January 6, 1981, so that as amended this portion of the resolution shall read: “to extend the term of the special permit for an additional one (1) year from January 6, 2010, to expire on January 6, 2011; *on condition* that all conditions and drawings associated with the previous grant remain in effect; and *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT there shall be no more than 130 amusement games on the subject premises;

THAT the above conditions and all conditions from prior resolutions shall appear 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 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 Alt. No. 435/81)

Adopted by the Board of Standards and Appeals, November 10, 2009.

3-04-BZ

APPLICANT – Eric Palatnik, P.C., for Rushikesh Trivedi, owner.

SUBJECT – Application September 22, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for a two story, two family dwelling which expires on November 29, 2009; Waiver of the Rules. R-2 zoning district.

PREMISES AFFECTED – 147-08 46th Avenue, between Parsons Boulevard and 149th Street, Block 5452, Lot 3, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a previously granted variance to permit, within an R2 zoning district, the development of a two-family dwelling, which expires on November 29, 2009; and

WHEREAS, a public hearing was held on this application on October 27, 2009 after due notice by

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publication in *The City Record*, and then to decision on November 10, 2009; and

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

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Hinkson; and

WHEREAS, the subject site is located on the southeast corner of Parsons Boulevard and 46th Avenue, within an R2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 29, 2005 when, under the subject calendar number, the Board granted a variance to permit the development of a two-family dwelling; and

WHEREAS, substantial construction is to be completed by November 29, 2009, in accordance with ZR § 72-23; and

WHEREAS, the applicant represents that construction has been delayed due to financing issues; and

WHEREAS, thus, the applicant requests an extension of time to complete construction; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated November 29, 2005, 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 four years from the expiration of the previous grant, to expire on November 29, 2013; *on condition*:

THAT substantial construction shall be completed by November 29, 2013;

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

THAT this approval is limited to the relief granted by the 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. 4022158121)

Adopted by the Board of Standards and Appeals, November 10, 2009.

19-05-BZ

APPLICANT – Slater & Beckerman, LLP, for Groff Studios Corporation, owner.

SUBJECT – Application September 18, 2009 – Extension of Time to complete construction of a previously granted Variance (§72-21) for the change in use of portions of an existing nine-story, mixed-use building to residential use which expires on October 18, 2009. M1-6 zoning district.

PREMISES AFFECTED – 151 West 28th Street, north side of West 28th Street, 101’ east of Seventh Avenue, Block 804, Lot 8, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Neil Weisbard.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a previously granted variance to permit, within an M1-6 zoning district, the change in use of portions of an existing nine-story, mixed-use building to residential use (Use Group 2), which expired on October 18, 2009; and

WHEREAS, a public hearing was held on this application on October 27, 2009 after due notice by publication in *The City Record*, and then to decision on November 10, 2009; and

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

WHEREAS, the subject site is located on the north side of West 28th Street, between Sixth Avenue and Seventh Avenue, within an M1-6 zoning district; and

WHEREAS, the site is currently occupied by a nine-story mixed-use commercial/ residential building, with a total floor area of 39,950 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 24, 1981 when, under BSA Cal. No. 768-81-ALC, the Board granted an application pursuant to ZR § 15-021 to permit the conversion of 24,776 sq. ft. of commercial floor area on the second through ninth floors of the subject building to residential floor area, with the exception of half-floor units on the second, third, fifth and seventh floors; and

WHEREAS, on October 18, 2005, under the subject calendar number, the Board granted a variance to permit the conversion of four units constituting 8,750 sq. ft. of floor area on the second, third, fifth and seventh floors from commercial use to residential use; and

WHEREAS, substantial construction was to be completed by October 18, 2009, in accordance with ZR § 72-23; and

WHEREAS, the applicant represents that building permits have been obtained for the fifth and seventh floor units that are proposed to be converted, and a portion of the construction has been completed on them, but due to a series of delays including the continued occupancy of the second and third floor units that are proposed to be converted, additional time is necessary to complete the project; thus, the applicant now requests an extension of time to complete construction; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction is appropriate with certain conditions as set forth

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below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated October 18, 2005, 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 four years, to expire on November 10, 2013; *on condition*:

THAT substantial construction shall be completed by November 10, 2013;

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

THAT this approval is limited to the relief granted by the 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. 103993270)

Adopted by the Board of Standards and Appeals, November 10, 2009.

728-29-BZ

APPLICANT – Walter T. Gorman, P.E., for ExxonMobil Corporation, owner; ExxonMobil Franchisee, lessee.

SUBJECT – Application August 31, 2009 – Extension of Term for the continued use of a gasoline service station (*Mobil*) which expires on March 19, 2010. R4 zoning district.

PREMISES AFFECTED – 154-04 Horace Harding Expressway, bounded easterly by Kissena Boulevard, northerly by Horace Harding Expressway and southerly by 64th Street, Block 6744, Lot 71, Borough of Queens.

COMMUNITY BOARD #8Q

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 November 24, 2009, at 10 A.M., for decision, hearing closed.

467-58-BZ

APPLICANT – Walter T. Gorman, P.E., for ExxonMobil Corporation, owner; Nor-Topia Service Station, lessee.

SUBJECT – Application September 14, 2009 – Extension of Term for the continued operation of a Gasoline Service Station (*Mobil*) which expires on December 4, 2009. R3-2 zoning district.

PREMISES AFFECTED – 172-11 Northern Boulevard, northside blockfront between 172nd Street & Utopia Parkway, Block 5363, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

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 November 24, 2009, at 10 A.M., for decision, hearing closed.

149-01-BZ

APPLICANT – Eric Palatnik, P.C. for Jane Street Realty LLC, owner.

SUBJECT – Application March 26, 2009 – Amendment to a previously issued resolution that seeks to remove the condition that a residential unit be occupied by a qualified senior citizen at a subsidized rate for a term of 10 years, from the date of the issuance of the Certificate of Occupancy. R6 zoning district.

PREMISES AFFECTED – 88 Jane Street, between Washington and Greenwich Streets, Block 641, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Eric Palatnik.

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 November 24, 2009, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

216-09-A

APPLICANT – Gary D. Lenhart, RA, for The Breezy Point Cooperative, Incorporated, owner; Thomas Fitzgerald, lessee.

SUBJECT – Application July 7, 2009 – Proposed reconstruction and enlargement of a single family home and the proposed upgrade of an existing non-conforming private disposal system located in the bed of a mapped street, contrary to General City Law Section 35. R4 zoning district. PREMISES AFFECTED – 51 West Market Street, North side of Rockaway Point Boulevard at the intersection of mapped Bayside Drive. Block 16350, Lot p/o 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary D. Lenhart.

ACTION OF THE BOARD – Application granted on

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condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated June 8, 2009, and acting on Department of Buildings Application No. 410052240 reads, in pertinent part:

- “A1- The existing building to be reconstructed and altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35.
- A2- The proposed upgraded private disposal system is in the bed of the mapped street and/or service lane is contrary to Department of Buildings’ policy;” and

WHEREAS, a public hearing was held on this application on November 10, 2009, after due notice by publication in the *City Record* and then to closure and decision on the same date; and

WHEREAS, by letter dated July 16, 2009, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated July 16, 2009, the Department of Environmental Protection states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated November 9, 2009, the Department of Transportation (“DOT”) states that it has reviewed the subject proposal and has no objections; and

WHEREAS, DOT states that the applicant’s property is not included in the agency’s ten-year capital plan; and

WHEREAS, accordingly, the Board has determined that 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 June 8, 2009, acting on Department of Buildings Application No. 410052240, 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 July 7, 2009”–one (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 DOB shall review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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, November 10, 2009.

232-09-A

APPLICANT – New York City Fire Department.

OWNER OF PREMISES: Martin Goldstein.

LESSEE: Romar Check Cashing.

SUBJECT – Application July 23, 2009 – Appeal seeking a modification of the Certificate of Occupancy to require an approved automatic wet sprinkler system installed throughout the entire building. R5 zoning district.

PREMISES AFFECTED – 1775 Flatbush Avenue, Brooklyn Avenue and East 36th Street, Block 7618, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Anthony Scaduto, Fire Department.

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application from the Fire Commissioner, requesting to modify the certificate of occupancy of the subject premises to reflect a requirement for an automatic wet sprinkler system throughout the entire building; and

WHEREAS, the Fire Commissioner proposes to issue the following order to the property owner:

“You are hereby directed and required to comply with the following order within (30) days.

Install an approved Automatic Wet Sprinkler System throughout the building arranged and equipped as per Title 27, Chapter 1, and Subchapter 17 of the NYC Administrative Code.

Note: Plans shall be filed and approved by the Department of Buildings before work commences;” and

WHEREAS, a public hearing was held on this application on October 27, 2009, after due notice by publication in the *City Record*, and then to decision on November 10, 2009; and

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

WHEREAS, the subject premises is located on the north side of Flatbush Avenue, between Brooklyn Avenue and East 36th Street, within an R5 zoning district; and

WHEREAS, the subject site is occupied by a check cashing business; and

WHEREAS, the current Certificate of Occupancy Number 31724 (the “Current CO”) reflects the use of the

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building as a public market; and

WHEREAS, the Current CO does not reflect that sprinklers are required; and

WHEREAS, the Fire Department performed an inspection of the building on February 20, 2009 and submitted a Sprinkler System Recommendation Report for the subject site which explained the need for the proposed automatic wet sprinkler system throughout the building; and

WHEREAS, the Fire Department asserts that the proposed modification to the Current CO is necessary in the interest of public safety because fire protection within the subject building is deemed inadequate; and

WHEREAS, specifically, the Fire Department states that an automatic wet sprinkler system is required throughout the building for the following reasons: (1) the subject building is a non-fireproof building; (2) the building is constructed with steel plating which inhibits fire-fighting operations including ventilation, immediate suppression, and entry; and (3) the building does not provide a secondary means of egress; and

WHEREAS, pursuant to the Administrative Code § 27-4265, the Fire Department requests to modify the certificate of occupancy to reflect that an automatic wet sprinkler system be installed throughout the building; and

WHEREAS, the Board agrees with the Fire Department that, given the use and construction of the building, automatic sprinklers are required in the entire building as per the Building Code; and

WHEREAS, thus, based on the evidence in the record, the Board finds that the installation of an automatic wet sprinkler system, as requested by the Fire Department, is necessary to protect life and property at the premises in the event of fire; and

WHEREAS, the owner testified at hearing and provided a letter, dated October 23, 2009, agreeing to install a sprinkler configuration, in consultation with DOB, which would satisfy the Fire Department's requirements; and

WHEREAS, the Board notes that the ultimate configuration of the sprinkler system may differ from what the Fire Department initially requested, but it will be approved by DOB and the Fire Department prior to installation.

Therefore it is Resolved that the application of the Fire Commissioner, dated July 23, 2009, seeking the modification of Certificate of Occupancy No. 31724 is hereby granted.

Adopted by the Board of Standards and Appeals, November 10, 2009.

62-08-A

APPLICANT – Eric Palatnik, P.C. for Benny Ulloa, owner.
SUBJECT – Application March 27, 2009 – Proposed construction not fronting on a legally mapped street, contrary to General City Law, Section 36. R1-2 zoning district.

PREMISES AFFECTED – 398 Nugent Street, Nugent Street, North of Saint George Road, Block 2284, Lot 25, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to January 12, 2010, at 10 A.M., for continued hearing.

159-09-A

APPLICANT – Rothkrug Rothkrug & Spector, LLC, for 2nd Street Development Corp., owner.

SUBJECT – Application April 16, 2009 – Proposed construction of a single family home located within the bed of a mapped street (Doane Avenue), contrary to General City Law §35. R2 zoning district.

PREMISES AFFECTED – 85 Woodland Avenue, 175' east of the intersection of Colon Avenue and Woodland Avenue, Block 5442, Lot 44, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to November 17, 2009, at 10 A.M., for deferred decision.

167-09-A

APPLICANT – Harold Weinberg, P.E., for Yi Fu Rong, owner.

SUBJECT – Application May 5, 2009 – Appeal challenging Department of Building's determination that the reconstruction of non-complying building must be done in accordance with §54-41 and be required to provide a 30 foot rear yard. M1-2 zoning district.

PREMISES AFFECTED – 820 39th Street, south side, 150' east of 8th Avenue, Block 916, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD – Laid over to February 23, 2010, at 10 A.M., for continued hearing.

228-09-A & 229-09-A

APPLICANT – Jordan Most of Sheldon Lobel, P.C., for Selvakumar Rajaratnam, owner.

SUBJECT – Application July 16, 2009 – An Appeal seeking a common law vested right to complete construction commenced under the prior R6B zoning district. R5 zoning district.

PREMISES AFFECTED – 37-45 and 37-47 98th Street, east side of 98th Street, Block 1761, Lots 48 and 49, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

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ACTION OF THE BOARD – Laid over to November 24, 2009, at 10 A.M., for decision, hearing closed.

241-09-BZY

APPLICANT – Gouranga Kundu, for 170-22 93rd Property LLC, owner.

SUBJECT – Application August 12, 2009 – Extension of time to complete construction of a minor development (§11-332) commenced under the prior R6 Zoning district. R4-1 Zoning District.

PREMISES AFFECTED – 87-26 175th Street, (aka 88-04 175th Street) west side of 175th Street, 100’ north of corner of 89th Avenue and 175th Street, Block 9830, Lot 41, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Gouranga Kundu.

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 December 8, 2009, at 10 A.M., for decision, hearing closed.

249-09-A

APPLICANT – Bryan Cave LLP, for 363 Lafayette Street, LLC, owner.

SUBJECT – Application August 27, 2009 – Appeal challenging Department of Building's determination that permit for the subject premises expired and became invalid because the permitted work was not commenced within 12 months from the date of issuance, per Title 28, §28-105.9 of the Administrative Code.

PREMISES AFFECTED – 363 Lafayette Street (371 Lafayette Street, 21 Great Jones Street) east side of Lafayette Street, between Bond and Great Jones Streets, Block 530, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to January 12, 2010, at 10 A.M., for postponed hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

**REGULAR MEETING
TUESDAY AFTERNOON, NOVEMBER 10, 2009
1:30 P.M.**

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

ZONING CALENDAR

220-07-BZ

CEQR #08-BSA-021K

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 four-story residential building containing four dwelling units, contrary to use regulations (§42-10). M1-1 zoning 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: ?

For Opposition: Tzvi 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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated August 30, 2007, acting on Department of Buildings Application No. 310020410 reads, in pertinent part:

“Proposed multiple dwelling (UG 2) in the subject M1-1 district is contrary to ZR 42-10, and must be referred to the Board of Standards and Appeals. There are no applicable bulk, parking or yard regulations”; and

WHEREAS, this is an application under ZR § 72-21 to permit, within an M1-1 zoning district, the construction of a four-story, four-unit residential building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on September 16, 2008, after due notice by publication in the *City Record*, with continued hearings on

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November 25, 2008 and January 27, 2009, at which point the decision was deferred pending environmental review, and then to decision on November 10, 2009; and

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

WHEREAS, Council Member Letitia James testified in opposition to this application, citing concerns about the potential displacement of current tenants of the existing building; and

WHEREAS, certain neighbors testified in opposition to this application, raising the following primary concerns: (1) that the site does not suffer from a unique hardship; and (2) that demolition of the existing building would damage the adjacent building; and

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

WHEREAS, the subject site has a width of 25 feet, a depth of 120 feet, and a total lot area of 3,000 sq. ft.; and

WHEREAS, the site is occupied by a non-conforming three-story three-family residential building with a floor area of 1,613 sq. ft. (0.54 FAR) (the "existing building"), which is proposed to be demolished; and

WHEREAS, the applicant represents that the current residential use has existed without interruption since approximately 1887, and is therefore a legal non-conforming use; and

WHEREAS, the applicant proposes to build a four-story four-unit residential building with a floor area of 6,600 sq. ft. (2.2 FAR); and

WHEREAS, residential use is not permitted in the M1-1 district; therefore, the applicant seeks a variance to permit the non-conforming use; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site's narrow width; and (2) the obsolescence of the existing building; and

WHEREAS, the applicant represents that the 25-ft. width of the subject site is too narrow to accommodate a building with a loading dock or adequately sized floor plates to support a commercial or manufacturing use; and

WHEREAS, as to the uniqueness of this condition, the applicant submitted a land use map indicating that all conforming developments in the surrounding area were located on lots with widths exceeding that of the subject site; and

WHEREAS, the applicant represents that such analysis is indicative that the size of the site is infeasible for conforming manufacturing or commercial development; and

WHEREAS, the Board notes that while the surrounding area includes several lots of similar size, such lots are primarily occupied by residential uses; and

WHEREAS, however, unlike other such lots occupied by residential buildings, the applicant represents that the subject building is obsolete for its intended purpose and therefore must be demolished; and

WHEREAS, as to the functional obsolescence of the existing building, the applicant represents that it is no longer suitable for residential use due to its age, construction, floor plate, floor-to-ceiling heights, size, and structural condition; and

WHEREAS, the applicant further represents that the above-mentioned features of the existing building make it similarly unsuitable for any conforming use; and

WHEREAS, the applicant states that the existing building was built prior to 1887 and is the only frame multiple dwelling in the surrounding area; and

WHEREAS, the applicant submitted a certificate of occupancy search which reported that the subject site was occupied by a three-unit dwelling on the date of a November 19, 1902 Housing Department inspection and that a three-story frame building was recorded on a 1918 Sanborn map; and

WHEREAS, the applicant states that the subject site was originally occupied by two homes and the existing building was built with an open alley leading to the home in the rear which is overhung by the second and third floors; and

WHEREAS, the applicant states that the existing building is the only building in the surrounding area with such an internal alleyway and that the width of the first floor is consequently reduced to 17 feet; and

WHEREAS, the applicant represents that due to the building's alleyway and shallow depth, the floor area and FAR of the existing building is substantially less than that of surrounding properties on Kent Avenue; and

WHEREAS, specifically, the applicant states that the depth of the existing building is 29'-9" at the first floor and is 24'-6" at the second and third floors; and

WHEREAS, the applicant submitted a study dated January 12, 2009 (the "Neighborhood Study") comparing the existing building to all other buildings located on Kent Avenue between Park Avenue and Myrtle Avenue; and

WHEREAS, according to the Neighborhood Study, the floor area, FAR, and overall building height of the existing building is substantially smaller than virtually every other residential building in the surrounding area; and

WHEREAS, the Neighborhood Study indicates that the existing building has the lowest floor-to-ceiling heights of any residential building in the surrounding area, and that only one other building has ceiling heights below 8'-0"; and

WHEREAS, specifically, the applicant states that the floor-to-ceiling heights of 7'-11" on the first floor, 6'-11" on the second floor, and 7'-2" on the third floor fail to comply with the Building Code and represent a unique substandard physical condition; and

WHEREAS, the applicant represents that the existing building cannot be renovated or rehabilitated for residential use due to its poor structural condition; and

WHEREAS, at hearing, the Board requested that the applicant provide evidence of the building's structural obsolescence; and

WHEREAS, in response, the applicant submitted a report by a consulting engineer (the "Engineer's Report") identifying ten structural issues which included: (i) the substandard floor-to-ceiling heights; (ii) a need to replace the left wall at the

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second and third floors which leans outward; (iii) the antiquated electrical system and plumbing; (iv) the lack of windows in two first floor bedrooms which would require a major renovation to correct; (v) unbraced block walls which lean inwards at the rear requiring new foundations and walls; (vi) the lack of a firewall; and (vii) a dilapidated chimney; and

WHEREAS, the Engineer's Report concluded that the existing building was built to obsolete standards and would require demolition to meet current Building Code requirements; and

WHEREAS, further, the applicant states that on July 22, 2008, DOB rejected a pre-consideration application requesting to rebuild the existing non-conforming residential building on the basis that ZR § 54-41 requires a conforming use in a reconstructed building; and

WHEREAS, at hearing, neighborhood residents testified that the property was not unique; and

WHEREAS, the Board notes that, under New York law, a finding of uniqueness does not require that a given parcel be the only property so burdened by the condition(s) giving rise to the hardship, only that the condition is not so generally applicable as to dictate that the grant of a variance to all similarly situated properties would effect a material change in the district's zoning (see Douglaston Civ. Assn. v. Klein, 51 N.Y.2d 963, 965 (1980)); and

WHEREAS, notwithstanding the absence of a requirement that a site be the only one so situated in order to meet the standard for uniqueness, the Board notes that the applicant has submitted evidence to support the assertion that the combination of the noted site conditions is in fact unique to this site; and

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

WHEREAS, the applicant submitted a feasibility study that analyzed: (1) an "as-is" option for the existing non-conforming three-story residential building; (2) a conforming one-story manufacturing building with a total floor area of 3,000 sq. ft.; and (3) the proposed four-story residential building; and

WHEREAS, the feasibility study concluded that neither the as-is scenario nor the conforming scenario would realize a reasonable return, but that the proposed building would realize a reasonable return; 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 conformance with zoning district regulations 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 surrounding area is a mix of residential, commercial, and manufacturing

uses; and

WHEREAS, the applicant states that the proposed residential use is consistent with the character of the area, which includes many residential buildings; and

WHEREAS, in support of the above statements, the applicant submitted a land use survey map showing the various uses in the vicinity of the site, which indicates that a number of residential buildings are located in the area surrounding the subject site; and

WHEREAS, the Board agrees that there is a context for residential use in the area and finds that the introduction of four dwelling units will not impact nearby conforming uses; and

WHEREAS, as to bulk, the applicant notes that the proposed 2.2 FAR is within the zoning district parameters of the adjacent R6 district and that no bulk waivers are requested; and

WHEREAS, at hearing, an adjacent neighbor raised concerns that demolition of the existing building would damage the adjacent building at 845 Kent Avenue; and

WHEREAS, in response, the applicant stated that construction will comply with the Building Code and be carefully monitored to ensure that the adjacent building is protected; and

WHEREAS, at hearing, Council Member James raised concerns with displacement of current tenants due to redevelopment of the site; and

WHEREAS, the applicant submitted an affidavit executed by the building's managing agent stating that current tenants would be offered new apartments at 1056 Willoughby Avenue at their current rents; and

WHEREAS, the Board notes that three tenants of the existing building testified that they are willing to relocate to 1056 Willoughby Avenue; 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, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is due to the unique conditions of the site; and

WHEREAS, the Board observes that the proposed four-unit residential building results in the addition of only one dwelling unit as compared to the existing three-unit residential building, and is therefore limited in scope and compatible with nearby development; 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 a Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 08BSA310K, dated September 25, 2009; and

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

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Assessment has reviewed the following submissions from the Applicant: an August 2009 Environmental Assessment Statement (EAS); March 2008 Phase I Environmental Site Assessment Report, October 2008 Phase II Workplan and Health and Safety Plan (HASP), July 2009 Phase II Site Investigation Report; February 3, 2009, August 5, 2009, August 27, 2009 and September 21, 2009 air quality reports; and February 12, 2009 noise report; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials impacts, air quality and noise; and

WHEREAS, DEP approved of the Phase II Workplan and HASP on December 10, 2008; and

WHEREAS, DEP finds the vapor barrier for the proposed project acceptable and finds that a P.E.-certified Remedial Closure Report should be submitted to DEP for review and approval, documenting that all remedial requirements have been properly implemented (i.e. soil disposal manifests/certificates, proof of vapor barrier installation in accordance with the manufacturer's specifications and importing/grading two feet of DEP-approved certified clean fill /top soil in landscaped areas, capping, etc.); and

WHEREAS, the applicant conducted an assessment of potential industrial sources of air emissions in the vicinity of the subject site; and

WHEREAS, no emission sources within 400 feet of the site were reported in databases maintained by the Environmental Protection Agency, NYS Department of Environmental Protection or DEP; and

WHEREAS, field reconnaissance by the applicant within 400 feet of the subject site found that existing industrial uses were primarily warehouse/wholesale uses which do not involve industrial emissions and that no industrial emissions permits were held by the three existing industrial or automotive uses; and

WHEREAS, no potential for adverse impacts related to industrial air emissions are projected; and

WHEREAS, based on noise measurements performed, the environmental assessment determined that a noise attenuation of 30 dBA would be required to achieve an interior noise level of 45 dBA or less in a closed window condition when the ambient noise levels are between 70 and 75 dBA; 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, 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, within an M1-1 zoning district, the construction of a four-story, four-unit residential building, which is contrary to ZR § 42-10, *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 September 25, 2007"-(2) sheets, "February 17, 2009"-(4) sheets and "October 13, 2009"-(2) sheets"-(*) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: four stories, a maximum floor area of 6,600 sq. ft. (2.2 FAR); a height of 44'-0"; and a rear yard with a depth of 54'-0", as shown on the BSA-approved plans;

THAT a Remedial Closure Report shall be submitted to DEP for review and approval and an approved vapor barrier system shall be installed for the proposed project prior to the issuance of building permits;

THAT windows achieving a noise attenuation of 30 dBA shall be installed on the façade of the proposed building;

THAT a central air-conditioning system shall be installed in the residential units in order to maintain a closed window condition; and

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

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

THAT this grant is contingent upon final approval from the Department of Environmental Protection before an issuance of construction permits other than permits needed for soil remediation;

THAT construction shall proceed in accordance with ZR § 72-23; 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, November 10, 2009.

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63-08-BZ

CEQR #08-BSA-070Q

APPLICANT – Eric Palatnik for Royal Palace, lessee. Manton Holding, owner.

SUBJECT – Application March 27, 2008 – Special Permit (§73-244) to legalize an eating and drinking establishment with entertainment and a capacity of more than 200 persons with dancing. C4-2 zoning district.

PREMISES AFFECTED – 116-33 Queens Boulevard, Between 77th and 78th Avenues, Block 2268, Lot 23, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative: Vice-Chair Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Superintendent, dated March 4, 2008, acting on Department of Buildings Application No. 400520851 reads:

“Proposed cabaret U.G. 12 is within 100’ from a residential district boundary and contrary to 32-21 ZR and 73-244 ZR;” and

WHEREAS, this is an application under ZR §§ 73-244 and 73-03 to permit, within a C4-2 zoning district, a Use Group 12 eating and drinking establishment with entertainment and dancing on the first floor and mezzanine of the subject building, contrary to ZR § 32-21; and

WHEREAS, a public hearing was held on this application on January 13, 2009, after due notice by publication in the *City Record*, with continued hearings on February 10, 2009, March 31, 2009, May 19, 2009, and June 23, 2009, and then set for decision on August 11, 2009; and

WHEREAS, on August 11, 2009, the hearing was reopened to allow additional submissions and testimony by the parties, and then set for decision on October 20, 2009; and

WHEREAS, on October 20, 2009, the hearing was reopened to allow additional submissions by the parties, and then set for decision on November 10, 2009; and

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

WHEREAS, Community Board 6, Queens, recommends disapproval of this application; and

WHEREAS, City Council Member Melinda Katz provided written testimony in opposition to this application; and

WHEREAS, the Queens Borough President provided written testimony in opposition to this application; and

WHEREAS, members of Forest Hills South Owners, Inc., represented by counsel, and other community members, collectively known as the “Opposition,” provided written and oral testimony in opposition to this application; and

WHEREAS, the Opposition raised the following primary concerns based partly on the current operation (UG 9 catering) of the site: (1) the proposed use does not provide parking and therefore will cause traffic congestion on surrounding streets; (2) the proposed use will generate noise impacts; (3) the proposed use will result in stacking of garbage on the sidewalk and pick up at unreasonable hours; and (4) the applicant will continue to operate Use Group 9 catering on the first floor; and

WHEREAS, the subject site is located on the north side of Queens Boulevard, between 77th Avenue and 78th Avenue, and has a lot area of 26,542 sq. ft.; and

WHEREAS, the zoning lot is currently occupied by a one- and two-story commercial building; the one-story building is operated by Royal Palace of Queens (“Royal Palace”), with a Use Group 9 catering establishment on the cellar level and first floor; and

WHEREAS, the applicant proposes to use the first floor of the one-story building at the above address as a Use Group 12 eating and drinking establishment with entertainment and dancing; and

WHEREAS, the applicant initially proposed a Use Group 12 eating and drinking establishment with entertainment and dancing at both the cellar level and first floor, then changed the proposal to a Use Group 12 eating and drinking establishment with entertainment and dancing on the first floor to be used in conjunction with the existing Use Group 9 catering establishment in the cellar; and

WHEREAS, during hearing and at the Board’s direction, the applicant revised its proposal by limiting the Use Group 12 eating and drinking establishment with entertainment and dancing to the first floor and mezzanine and separating its operation from the Use Group 9 catering establishment occupying the cellar level; and

WHEREAS, the applicant notes that the Use Group 12 eating and drinking establishment with entertainment and dancing will be limited to a total of approximately 5,470 sq. ft. on the first floor and mezzanine; and

WHEREAS, the Board notes that at the time the applicant filed this application, its Temporary Certificate of Occupancy reflected a Use Group 12 eating and drinking establishment with entertainment and dancing at both the cellar level and first floor; and

WHEREAS, in response to the Board’s concern that the applicant was representing that the Board was legalizing the uses at both the cellar and first floor level, the applicant provided a revised Temporary Certificate of Occupancy with a Use Group 9 catering establishment at the cellar level and a Use Group 6 eating and drinking establishment on the first floor; and

WHEREAS, the Board notes that the proposed Use Group 9 catering establishment at the cellar level is permitted as-of-right under the Zoning Resolution; and

WHEREAS, the Board further notes that under ZR § 73-244, its review is limited to the applicant’s request to operate a Use Group 12 eating and drinking establishment with entertainment and dancing in a C4-2 zoning district; and

WHEREAS, thus, the Use Group 9 catering establishment located at the cellar level is not under review by

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the Board in this application; and

WHEREAS, the applicant represents that the proposal meets all requirements of the special permit authorized by ZR § 73-244 for permitting a Use Group 12 eating and drinking establishment with entertainment and dancing in a C4-2 zoning district; and

WHEREAS, as to the findings, ZR § 73-244(a) requires that: a minimum of four square feet of waiting area within the zoning lot shall be provided for each person permitted under the occupant capacity as determined by the Building Code; the required waiting area shall be in an enclosed lobby and shall not include space occupied by stairs, corridors or restrooms; and a plan shall be provided to the Board to ensure that the operation of the establishment will not result in the gathering of crowds or the formation of lines on the street; and

WHEREAS, the applicant states that the maximum occupancy for the proposed Use Group 12 first floor use is 245 persons, and therefore the minimum required size of the waiting area is 980 sq. ft.; and

WHEREAS, the Board notes that the applicant initially proposed an unenclosed waiting area that did not meet all the requirements of ZR § 73-244(a); and

WHEREAS, during hearing, the applicant revised its plans to provide a 1,000 sq. ft. waiting area which accommodates a minimum of four square feet per person, in an enclosed lobby, and provided a plan to ensure that the operation of the proposed use will not result in the gathering of crowds or the formation of lines on the street; and

WHEREAS, specifically, the plan proposes a waiting area that is located in a contiguous, enclosed lobby of 1,000 sq. ft., which: (a) is not occupied by stairs, corridors or restrooms; (b) does not provide seating or the serving of beverages; and (c) is accessed directly from the sidewalk, and serves as the only entrance to the establishment, thereby ensuring that crowds will not gather and lines will not form on the street; and

WHEREAS, ZR § 73-244(b) requires that the entrance to such use be a minimum of 100 feet from the nearest residence district boundary; and

WHEREAS, the applicant submitted a radius diagram reflecting that the entrance to the premises is located at the property line on Queens Boulevard, which is 100 feet from the nearest residence district boundary located between Queens Boulevard and 113th Street; and

WHEREAS, ZR § 73-244(c) requires that the use will not cause undue vehicular or pedestrian congestion in local streets; and

WHEREAS, the applicant represents that the availability of on-street parking, the site's proximity to off-street parking facilities, and the fact that Queens Boulevard is a heavily trafficked eight-lane commercial thoroughfare will prevent the creation of undue vehicular or pedestrian congestion on local streets; and

WHEREAS, the applicant provided a traffic study that analyzed the impact of the proposed special permit use as compared to an as-of-right use and notes that the amount of vehicular traffic generated by the proposed use would be less than that generated by an as-of-right use; and

WHEREAS, at hearing, the Board raised concerns that the Use Group 12 use would have different peak hours than an as-of-right use; and

WHEREAS, in response, the applicant notes that, while the proposed use may have different peak hours than an as-of-right use, it would not generate traffic during peak periods that would cause an impact at any intersection; and

WHEREAS, as to parking demand, the applicant provided a parking demand study reflecting that the proposed use would add no more than seven additional vehicles during peak periods; and

WHEREAS, the applicant also submitted a traffic and parking analysis indicating that 170 on-street parking spaces are located within a 400-foot radius of the subject site; and

WHEREAS, the traffic and parking analysis further indicates that a minimum of 38 on-street parking spaces are available during the weekday peak hour time period and a minimum of 14 on-street parking spaces are available during the weekend peak hour time period; and

WHEREAS, the applicant also submitted an affidavit from Sylvan Parking Company Inc., indicating that a total of 100 parking spaces will be available to Royal Palace patrons at two nearby parking garages on a daily basis; 50 parking spaces will be available at 80-02 Kew Gardens Road, and 50 parking spaces will be available at 112-01 Queens Boulevard; and

WHEREAS, the traffic and parking analysis submitted by the applicant concludes that sufficient parking is provided for the proposed first floor use of the site as a Use Group 12 eating and drinking establishment with entertainment, and no significant adverse impacts related to traffic and parking conditions are anticipated to occur; and

WHEREAS, the Opposition argues that the affidavit from Sylvan Parking Company, Inc., does not establish a clear contractual relationship between the applicant and the parking company, and that the two garages are not located within 600 feet of the subject premises, as required; and

WHEREAS, in response, the applicant submitted a correspondence from its traffic and parking consultant stating that, pursuant to the CEQR Technical Manual, all on-street and off-street parking within a ¼ mile radius, or 1,320 feet, from the project site is to be considered; and

WHEREAS, the Board considers the affidavit submitted by the applicant sufficient to establish that off-street parking will be made available to Royal Palace at the aforementioned parking facilities; and

WHEREAS, the Opposition asserts that the subject site is required to provide parking pursuant to ZR § 36-21, which requires accessory parking for all new development, including the use of a tract of land for a new use; and

WHEREAS, in response, and at the request of the Board, the applicant provided a Reconsideration from the Department of Buildings ("DOB") reflecting that the subject site is exempt from the parking requirement under ZR § 36-21; and

WHEREAS, the Opposition contends that the Reconsideration submitted by the applicant did not address the fact that the first floor of the subject site will be occupied by a Use Group 12 eating and drinking establishment rather than a Use Group 6 eating and drinking establishment, and that for a

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Use Group 12 eating and drinking establishment a parking requirement is triggered where there has been an increase in the floor area of the premises or the permissible number of patrons at the premises; and

WHEREAS, the Opposition argues that the proposed construction of the mezzanine in the subject building will increase the square footage of the premises and if the subject special permit is granted there will be an increase in the permissible number of patrons at the premises, and therefore the applicant is required to provide accessory parking pursuant to ZR § 36-21; and

WHEREAS, in response, the applicant submitted correspondence and a subsequent Reconsideration from DOB reaffirming that the parking requirement for the subject site is waived; and

WHEREAS, the Board notes that even if the proposed use did generate a parking requirement, the Zoning Resolution would require 31 parking spaces for a Use Group 12 use of this size, and the applicant has already secured ample parking from the two above-mentioned parking facilities; and

WHEREAS, accordingly, the Board finds that the proposed use will not cause undue vehicular or pedestrian traffic in local streets; and

WHEREAS, ZR § 73-244(d) requires that the use will not impair the character or the future use or development of the surrounding residential or mixed-use neighborhoods; and

WHEREAS, the applicant states that Queens Boulevard is a heavily-trafficked eight-lane thoroughfare that is characterized by a mix of commercial and residential development, and that in particular, the ground floor uses along Queens Boulevard are predominantly commercial; and

WHEREAS, the applicant provided photographs and a map reflecting that there are 11 other restaurants with commercial kitchens along Queens Boulevard within eight blocks of the subject site; and

WHEREAS, the Board notes that the proposed hours of operation for the first floor Use Group 12 eating and drinking establishment with entertainment and dancing are similar to the hours of operation of a Use Group 6 eating and drinking establishment, and the occupancy of the Use Group 12 use is limited to 250 people even though the subject special permit allows an increased occupancy; and

WHEREAS, as to bulk, the applicant states that there will be no changes to or enlargement of the building envelope; and

WHEREAS, accordingly, the Board finds that the proposed use will not impair the character or the future use or development of the surrounding residential or mixed use neighborhoods; and

WHEREAS, ZR § 73-244(e) requires that the use will not cause the sound level in any affected conforming residential use, joint living-work quarters for artists or loft dwelling to exceed the limits set forth in any applicable provision of the New York City Noise Control Code (the "Noise Code"); and

WHEREAS, the applicant states that the masonry construction of the walls of the building and the attenuation measures that will be undertaken will prevent the sound level of any of the surrounding residential units to exceed the limits

set forth in the Noise Code; and

WHEREAS, the applicant states that the nearest residential building is 11 feet from the western wall of Royal Palace and approximately 25 feet from the nearest speaker on the first floor; and

WHEREAS, the applicant submitted a noise analysis indicating that the distance from the speaker to the residential building, the concrete construction of the western wall of Royal Palace, and the brick construction of the nearby residential building all contribute to provide significant noise attenuation for the surrounding residential units; and

WHEREAS, the noise analysis concluded that Royal Palace is in compliance with the noise level of 42 dBA for indoor residential noise levels specified in the Noise Code, but is up to seven dBA higher than the noise exposure guidelines in the NYC CEQR Technical Manual of 55 dBA (L10) for outdoor noise levels after 10:00 p.m.; and

WHEREAS, in order to ensure that the noise levels comply with the Noise Code and the noise exposure guidelines in the NYC CEQR Technical Manual, the noise analysis made specific recommendations to further minimize any sound/vibration transmissions, including: (1) installing a floor-to-ceiling plexiglass wall with 15 DB noise reduction of low frequency noise as the partition for the required waiting area on the first floor; (2) installing a compressor delimiter to the sound board on the western side of the first floor stage; (3) adding acoustical shielding with DB 13 reduction of low frequency noise to the portion of the western mezzanine wall constructed of drywall; and (4) keeping the exterior doors closed during events; and

WHEREAS, the applicant represents that it will comply with the recommendations of the noise analysis; and

WHEREAS, the Opposition contends that the aforementioned noise analysis was conducted during an event that consisted of a single violinist and singer and was therefore not representative of the type of music, magnitude of amplification, or number of customers that would be typical of the proposed use; and

WHEREAS, in response, the applicant's noise consultant states that while a violinist and singer performed the night that the noise analysis was conducted, the relevant testing did not occur until later in the night when a full band with singers and amplified music was performing; and

WHEREAS, the Opposition also testified that a significant amount of noise is created by patrons of Royal Palace because they congregate outside the building when entering and leaving the premises; and

WHEREAS, in response, the applicant states that the aforementioned waiting area on the first floor will provide a place for patrons to congregate without creating unnecessary noise outside the building; and

WHEREAS, accordingly, the Board finds that the proposed use will not cause the sound level in any affected conforming residential use to exceed the limits set forth in any applicable provision of the Noise Code; and

WHEREAS, ZR § 73-244(f) requires that the application is made jointly by the owner of the building and the operators of such eating or drinking establishment; and

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WHEREAS, the applicant represents that the instant application has been made jointly by the owner of the building, who has authorized the filing of this application, and the operator of the proposed establishment; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at Z.R. §73-244; and

WHEREAS, the applicant represents that the hazards or disadvantages of the proposed special permit use to the community at large are outweighed by the advantages to be derived by the community by the grant of the special permit; and

WHEREAS, the applicant further represents that the proposed use will provide a service to the community in that it caters to the heavy Russian/Jewish population in the surrounding area and serves as a venue for many community-oriented events within that population; and

WHEREAS, the Opposition provided written and oral testimony that Royal Palace currently places large amounts of garbage on the Queens Boulevard sidewalk underneath residential windows and in the alley next to the adjacent residential building for pickup, creating foul odors and unsanitary conditions; and

WHEREAS, in response, the applicant revised its plans to include a refrigerated garbage storage area on the first floor of the proposed building so that garbage will no longer be stored on the sidewalk for extended periods prior to pickup by the carting company; and

WHEREAS, the Opposition also testified that the garbage is removed by the carting company at approximately 4:00 a.m., six days a week, resulting in excessive noise at an unreasonable hour; and

WHEREAS, in response, the applicant submitted a letter from Royal Waste Services, Inc., stating that it has a contract with Royal Palace to remove garbage bags and recycling materials and that the account was recently upgraded to seven days per week with pickups at 7:00 a.m. on a daily basis; and

WHEREAS, the Opposition argues that the correspondence from the carting company does not establish that a contract has been made between the parties for the amended pickup time, and claims that garbage removal still occurs between 2:00 a.m. and 4:00 a.m.; and

WHEREAS, in response, the applicant states that it has repeatedly requested that Royal Waste Services, Inc., amend their hours of pick up to accommodate the neighbors, and the carting company has assured the applicant that it will do so; and

WHEREAS, the Board finds the letter furnished by Royal Waste Services, Inc., to be sufficient evidence that the carting company has agreed to amend its pick up schedule to 7:00 a.m., seven days per week; and

WHEREAS, the Opposition claims that Royal Palace's rooftop ventilation shaft emits foul odors into the windows of the adjacent residential units; and

WHEREAS, in response, the applicant states that it has not been issued any violations by the Department of Environmental Protection ("DEP") pertaining to the emission of odors, and represents that the disturbance caused by any emissions by Royal Palace stems from the

fact that it is a one-story building adjacent to a six-story residential building; and

WHEREAS, the applicant also submitted a receipt reflecting that the rooftop ductwork was extended by forty feet in 2006 to re-route the discharge away from the residential units, and provided drawings and photographs reflecting that the rooftop ventilation is located as far from the adjacent residential units as possible; and

WHEREAS, the Board notes that its staff requested that DOB inspect the rooftop mechanicals and ventilation at the site for code compliance and that DOB informed the Board that it had inspected the site and confirmed that the rooftop mechanical and ductwork are in compliance and that the Equipment Use Permits are valid; and

WHEREAS, the Board notes that prior to this application the Use Group 9 catering establishment was operating in contravention to ZR § 32-423, which prohibits a Use Group 9 catering establishment from operating within 50 feet of the street wall on the first floor of a building; and

WHEREAS, during hearing, the applicant agreed to cease operating the existing Use Group 9 catering establishment within 50 feet of the street wall on the first floor of the building, in compliance with ZR § 32-423; and

WHEREAS, the Opposition testified that during the course of this application the applicant continued to operate the Use Group 9 catering establishment within 50 feet of the street wall on the first floor of the building; and

WHEREAS, during a Board member's site visit, it was revealed that the Use Group 9 catering establishment was operating within 50 feet of the street wall on the first floor of the building; and

WHEREAS, therefore, the Opposition argues that the applicant will not operate the proposed Use Group 12 use on the first floor and the existing Use Group 9 use at the cellar level as separate facilities, as it has represented to the Board, but rather will operate a Use Group 9 catering establishment on both the cellar and first floors without the required 50-foot setback from the street wall at the first floor; and

WHEREAS, in response to the concerns raised by the Opposition and at the Board's direction, the applicant revised its plans several times to help ensure that the two uses will be operated separately; and

WHEREAS, specifically, the applicant revised its plans to: (1) provide separate entrances from the street for the first floor and cellar use; (2) enclose the proposed first floor waiting room so that it only services that floor; (3) remove all notes referring to the combined use of the two floors; (4) add a mezzanine level with bathrooms to service the first floor; and (5) remove a dumbwaiter between the cellar level and first floor; and

WHEREAS, the applicant states that there are also separate commercial kitchens located on the cellar level and the first floor, which will operate independently to service only that respective floor; and

WHEREAS, the applicant also submitted a letter from the operator of Royal Palace, stating that the proposed business plan is to operate a full-time, full-service restaurant on the first floor during lunch and dinner hours, which will

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be separate from the catering use in the cellar; and

WHEREAS, at the request of the Board, the applicant provided Royal Palace's datebook and a list of past events held at the site as evidence of the types of catering events which are currently held at the site; and

WHEREAS, the Opposition argues that the maximum occupancy for the catering use in the cellar is 200 people and that the datebook and list of past events submitted by Royal Palace indicate that it has provided catering for more than 200 people in the past, and that therefore the catering use will be extended to the first floor for future events with more than 200 people; and

WHEREAS, in response, the applicant states that Royal Palace will limit the size of future catering events to a maximum of 200 people, to further ensure that the uses remain separate; and

WHEREAS, while the catering use at the cellar level and its capacity is not before the Board, the Board notes that the catering use will not be permitted within the space that is the subject of the special permit for the Use Group 12 use; and

WHEREAS, the Board further notes that it is prohibited from denying a special permit based on a speculative future illegal use (citing Matter of Di Milia v. Bennett, 149 A.D.2d 592, 593 (2d Dep't 1989) ("[t]he standard to be applied herein is the actual use of the building in question, not its possible future use"); and

WHEREAS, the applicant has agreed to implement a number of measures to ensure that the Use Group 12 eating and drinking establishment with entertainment and dancing is operated separately from the Use Group 9 catering establishment, including: (1) providing separate entrances; (2) providing an adequate waiting area; (3) securing off-street parking; (4) providing noise attenuation; (5) committing to more reasonable hours for garbage pick-up; (6) providing an enclosed, refrigerated garbage holding area; (7) providing separate restrooms; and (8) limiting the hours of operation for the Use Group 12 use; and

WHEREAS, the Board notes that pursuant to ZR § 73-04, it has the authority to prescribe conditions and safeguards to the grant of a special permit, and the applicant's failure to comply with such conditions constitute the basis for the revocation of the grant or the denial of a future application for renewal of the grant; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-244 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental

Assessment Statement (EAS) CEQR No. 08-BSA-070Q, dated April 22, 2008; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-244 and 73-03, to permit, within a C4-2 zoning district, a Use Group 12 eating and drinking establishment with entertainment and dancing on the first floor and mezzanine of the subject building, contrary to ZR § 32-21; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received November 2, 2009" – three (3) sheets and *on further condition*:

THAT the Use Group 12 eating and drinking establishment with entertainment and dancing use shall be limited to a maximum of 5,470 sq. ft., located on the first floor and mezzanine of the subject building;

THAT the term of this grant shall expire on November 10, 2010;

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

THAT there shall be no commercial catering use within the Use Group 12 area;

THAT the maximum occupancy for the first floor and mezzanine shall be 245 persons;

THAT the hours of operation for the Use Group 12 eating and drinking establishment with entertainment and dancing shall be: Sunday through Thursday, from 11:00 a.m. to 11:00 p.m.; Friday, from 11:00 a.m. to 9:00 p.m.; and Saturday from 5:00 p.m. to 11:00 p.m.;

THAT the following noise attenuation measures shall be installed in accordance with the BSA-approved plans: (1) a floor-to-ceiling plexiglass wall with 15 DB noise reduction of low frequency noise shall be installed as the partition for the required waiting area on the first floor; (2) a compressor delimiter for sound board shall be installed on the western side of the stage on the first floor; and (3) acoustical shielding with 13 DB reduction of low frequency noise shall be added to the portion of the western mezzanine wall constructed of drywall;

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THAT an enclosed, refrigerated garbage storage area shall be provided;

THAT garbage pick-up shall not take place between the hours of 7:00 p.m. and 7:00 a.m.;

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

THAT a certificate of occupancy shall be obtained by May 10, 2010;

THAT DOB shall review zoning compliance of the recently constructed mezzanine and compliance with Administrative Code regulations for ADA compliance and egress;

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

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

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

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

Adopted by the Board of Standards and Appeals, November 10, 2009.

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 residence, contrary to floor area and open space (§23-141); required front yard (§23-45), rear yard (§23-47), side yard (§23-46) and off street parking (§25-622) regulations. 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.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated October 2, 2009, acting on Department of Buildings Application No. 510052728, reads in pertinent part:

1. Proposed floor area exceeds the maximum permitted, which is contrary to ZR 23-141.
Proposed open space is contrary to ZR 23-141.

2. Proposed front yard is contrary to ZR 23-45.

3. Proposed rear yard is contrary to ZR 23-47.

4. Proposed lot area is contrary to section 23-32 of ZR...”; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R2 zoning district within a Lower Density Growth Management Area, the proposed construction of a two-story single-family home, which does not comply with the zoning requirements for floor area, open space, front yard, rear yard, and lot area, contrary to ZR §§ 23-141, 23-45, 23-47, and 23-32; and

WHEREAS, a public hearing was held on this application on August 18, 2009 after due notice by publication in *The City Record*, with continued hearings on September 22, 2009 and October 27, 2009, and then to decision on November 10, 2009; and

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

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

WHEREAS, Councilman James S. Oddo provided testimony in opposition to this application; and

WHEREAS, certain members of the community testified in opposition to this application; and

WHEREAS, collectively, the parties who provided testimony in opposition to the proposal are the “Opposition;” and

WHEREAS, specifically, the Opposition raised the following primary concerns: (1) the proposed home would have a negative impact on neighborhood character; and (2) the claimed hardship was self-created based on the purchase of the lot; and

WHEREAS, the site is located on the west side of Adelaide Avenue, 497 feet south of the intersection with Guyon Avenue, in an R2 zoning district within a Lower Density Growth Management Area; and

WHEREAS, the site consists of an irregularly-shaped lot, with 43’-2” of frontage on Adelaide Avenue, a depth of between 36 and 51 feet, and a total lot area of approximately 2,004 sq. ft.; the minimum required lot area is 3,800 sq. ft.; and

WHEREAS, the Board notes that ZR § 23-33 eliminates a lot area requirement for single-family homes in a Lower Density Growth Management Area where the zoning lot was owned separately and individually from all adjoining tracts of land both on December 8, 2005 and on the date of the application for a building permit; and

WHEREAS, the applicant submitted deeds and a title report reflecting that the subject lot (Lot 151) was owned separately and individually from all adjoining lots on December 8, 2005, however, the owner acquired the 50’-0” by 1’-0” lot (Lot 150) located adjacent to the west of the subject lot in April 2007, prior to the filing of its application for a building permit; accordingly, a waiver of the minimum lot requirements of ZR § 23-32 is required because the subject site does not qualify for exemption from those requirements pursuant to ZR § 23-33; and

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WHEREAS, the applicant states that Lot 150 consists of a strip with a width of 1'-0" along the rear of Lot 151, which results in a 1'-0" increase in the depth of the property and a 50 sq. ft. increase in lot area; and

WHEREAS, therefore, the applicant states that the commonality of ownership of Lots 150 and 151 does not affect the substance of this application; and

WHEREAS, the Board agrees that the merger of two undersized lots to create a larger undersized lot is not contrary to the intent of ZR § 23-33 and notes that it actually results in a slight decrease in the yard and floor area waivers sought by the owner in order to construct a viable single-family home on the site; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a two-story single-family home with the following parameters: a floor area of approximately 1,211 sq. ft. (the maximum permitted floor area is 1,002 sq. ft.); an FAR of 0.60 (the maximum permitted FAR is 0.50); an open space of 1,399 sq. ft. (1,504 sq. ft. is the minimum required); a front yard with a depth of 8'-0" (a depth of 15'-0" is the minimum required); a rear yard with a depth of 10'-0" (30'-0" is the minimum required); and a lot area of 2,004 sq. ft. (3,800 sq. ft. is the minimum required); and

WHEREAS, the applicant originally proposed to construct a home with a floor area of 1,343 sq. ft. (0.67 FAR) and with additional waivers for side yards and parking; and

WHEREAS, the applicant states that the requested relief is necessary for the reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the shallow depth, irregular shape, and small size of the subject site; and

WHEREAS, the applicant states that the site is a vacant, irregularly-shaped shallow lot that cannot feasibly accommodate as-of-right development; and

WHEREAS, the Board notes that the subject site is the smallest and shallowest site located wholly within a 400-foot radius of the site; and

WHEREAS, the applicant represents that the requested floor area, open space, front yard and rear yard waivers are necessary to develop the site with a habitable home; and

WHEREAS, as to the front and rear yard waivers, the Board observes that if the applicant were to provide the required front yard of 15'-0" and the required rear yard of 30'-0", the result would be a home with a maximum depth of approximately 2'-0"; and

WHEREAS, further, the front yard waiver is necessary in order to create a home with a viable depth while still providing a rear yard that would provide a reasonable distance between the proposed home and the adjacent lot to the rear of the site; and

WHEREAS, as to the floor area waiver, the applicant submitted plans reflecting that a home with an as-of-right floor area could not accommodate viable rooms and sufficient interior corridors and circulation space; and

WHEREAS, the applicant represents that the proposed footprint of 606 sq. ft. is the minimum necessary to accommodate a modestly-sized living room and kitchen on the first floor; and

WHEREAS, the applicant further represents that in order to provide a home with an as-of-right floor area while still accommodating the necessary first floor footprint, there would only be an additional 396 sq. ft. of floor area on the second floor, and setting back the second floor to accommodate such limited floor area would not be practical from an engineering and design standpoint; and

WHEREAS, based upon the above, the Board finds that the cited unique physical conditions create practical difficulties in developing the site in strict compliance with the applicable zoning district regulations; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that compliance with applicable zoning regulations will result in a habitable home; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant notes that the surrounding area is characterized by residential uses and that the proposed bulk is compatible with the nearby residential development; and

WHEREAS, the applicant submitted a sales report reflecting that the majority of all homes within one-half mile of the subject site that were sold during the past 24 months exceeded the floor area of the proposed home, with floor areas ranging from 1,300 sq. ft. to 2,300 sq. ft., and approximately half of those homes have FARs comparable to the proposed home; and

WHEREAS, the applicant represents that, due to the site's location along the arced section of Adelaide Avenue, there is no established front setback line along the street that would be interrupted by the proposed home; and

WHEREAS, the applicant states that the rear yard of the proposed home abuts a vacant lot with a width of 20 feet, such that there will be a separation of approximately 30 feet between the proposed home and the side yard of the nearest dwelling to the rear; and

WHEREAS, the applicant notes that the proposed home complies with the R2 zoning district regulations for use, side yards, height, and parking; and

WHEREAS, therefore, 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 unnecessary hardship encountered by compliance with the zoning regulations is inherent to the site's shallow depth, irregular shape, and small size; and

WHEREAS, the Opposition contended that the applicant's hardship was instead created by its purchase of the subject lot, which requires the requested variances to build a habitable home; and

WHEREAS, the Board notes that the (d) finding under ZR § 72-21 specifies that the purchase of a zoning lot subject

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to the cited hardship shall not constitute a self-created hardship; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is a result of the historic lot dimensions; and

WHEREAS, the applicant originally proposed a home with a width of 32 feet and a floor area of 1,343 sq. ft. (0.67 FAR), and requested additional waivers for side yards and parking; and

WHEREAS, the applicant modified the proposal during the course of the hearing process by reducing the width of the home to 29 feet and the floor area to 1,211 sq. ft. (0.60 FAR) and eliminating the waivers for side yards and parking; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 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 § 72-21 to permit, in an R2 zoning district within a Lower Density Growth Management Area, the proposed construction of a two-story single-family home, which does not comply with the zoning requirements for floor area, open space, front yard, rear yard, and lot area, contrary to ZR §§ 23-141, 23-45, 23-47, and 23-32; *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 September 10, 2009" – (11) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: approximately 1,211 sq. ft. of floor area (0.60 FAR); an open space of 1,399 sq. ft.; a front yard with a minimum depth of 8'-0"; a rear yard with a minimum depth of 10'-0"; a side yard with a minimum width of 5'-0" along the northern lot line and a side yard with a minimum width of 8'-0" along the southern lot line; a wall height of 24'-10"; a total height of 31'-4"; and parking for a minimum of two cars, as per the BSA-approved plans;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

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) only;

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

THAT significant 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,

November 10, 2009.

37-09-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Shirley Ades and Moshe Ades, owners.

SUBJECT – Application March 5, 2009 – Special Permit (§73-622) for the in-part legalization and enlargement of an existing single family home, contrary to floor area, open space and lot coverage (ZR §23-141(b)); side yard (ZR §23-461(a)) & (ZR §23-48); rear yard (ZR §23-47), and perimeter wall height (ZR §23-631) regulations. R3-2 zoning district.

PREMISES AFFECTED – 3950 Bedford Avenue, Bedford Avenue between Avenue R and Avenue S, Block 6830, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 3, 2009, acting on Department of Buildings Application No. 310218831, reads:

- "1) Proposed legalization and 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(b)
- 2) Proposed legalization and enlargement increases the degree of non-compliance of an existing building with respect to open space and lot coverage, which are contrary to ZR Section 23-141(b)
- 3) Proposed legalization and enlargement increases the degree of non-compliance of an existing building with respect to a side yard less than 5'-0", which is contrary to ZR Section 23-461(a) & 23-48
- 4) Proposed legalization and enlargement results in a rear yard of less than 30 feet, which is contrary to ZR Section 23-47;" and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement and partial legalization of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), lot coverage, open space, side yard and rear yard, contrary to ZR §§ 23-141, 23-461, 23-48, and 23-47; and

WHEREAS, a public hearing was held on this application on August 25, 2009 after due notice by publication in *The City Record*, with continued hearings on September 22, 2009 and October 20, 2009, and then to decision on November 10, 2009; and

MINUTES

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

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

WHEREAS, the subject site is located on the west side of Bedford Avenue, between Avenue R and Avenue S, in an R3-2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 2,775.5 sq. ft. (0.69 FAR); and

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

WHEREAS, the subject home initially had a floor area of approximately 2,196.5 sq. ft. (0.55 FAR), and was subsequently enlarged to its current floor area of 2,775.5 sq. ft. (0.69 FAR); and

WHEREAS, the applicant now seeks to legalize the prior enlargement and to permit a further increase in the floor area from 2,775.5 sq. ft. (0.69 FAR) to 3,886 sq. ft. (0.97 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide a lot coverage of approximately 40 percent (35 percent is the maximum permitted); and

WHEREAS, the applicant proposes to provide an open space of approximately 60 percent (65 percent is the minimum required); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard with a width of 3'-3" along the northern lot line (a minimum width of 5'-0" is required) and will provide a complying side yard of 9'-9¾" along the southern lot line; and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 21'-3¾" (a minimum rear yard depth of 30'-0" is required); and

WHEREAS, at hearing, the Board directed the applicant to provide evidence establishing that the prior enlargement only took place at the rear of the home; and

WHEREAS, in response, the applicant submitted historic photographs of the original home, reflecting that the façade and front portion of the building have remained and only the rear of the home has been enlarged; and

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622 and 73-03, to permit, within an R3-2 zoning district, the enlargement and partial legalization of a single-family home, which does not comply with the zoning requirements for FAR, lot coverage, open space, side yards and rear yards, contrary to ZR §§ 23-141, 23-461, 23-48, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received August 13, 2009"-(7) sheets, "September 9, 2009"-(2) sheets and "October 6, 2009"-(5) sheets; and *on further condition:*

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,886 sq. ft. (0.97 FAR); a lot coverage of approximately 40 percent; an open space of approximately 60 percent; a side yard with a minimum width of 3'-3" along the northern lot line; a side yard with a minimum width of 9'-9¾" along the southern lot line; a rear yard with a minimum depth of 21'-3¾"; a perimeter wall height of 21'-0", and a total height of 35'-0", as illustrated on the BSA-approved plans;

THAT DOB shall review and approve the elevations and compliance with wall height regulations;

THAT DOB shall review and approve compliance with the planting requirements under ZR § 23-451;

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;

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

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

Adopted by the Board of Standards and Appeals, November 10, 2009.

51-09-BZ

APPLICANT – Eric Palatnik, P.C., for Shiranian Nizi, owner.

SUBJECT – Application April 3, 2009 – Special Permit (§73-622) for the legalization of an enlargement to an existing single family home, contrary to side yard requirements (§461). R-5 zoning district.

PREMISES AFFECTED – 2032 East 17th Street, East 17th

MINUTES

Street and Avenue T, Block 7321, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

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, November 10, 2009.

97-08-BZ

APPLICANT – Eric Palatnik, P.C., for Chesky Berkowitz, owner; Central UTA, lessee.

SUBJECT – Application April 18, 2008 – Special Permit (§73-19) to allow the legalization of an existing school (*Central UTA*) (UG 3). M1-1 district.

PREMISES AFFECTED – 84 Sanford Street, between Park Avenue and Myrtle Avenue, Block 1736, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Eric Palatnik, Charles Sosik, David Shteikman and Hiram Rothkrug.

ACTION OF THE BOARD – Laid over to December 15, 2009, at 1:30 P.M., for continued hearing.

160-08-BZ

APPLICANT – Dominick Salvati and Son Architects, for HJC Holding Corporation, owner.

SUBJECT – Application June 11, 2008 – Variance (§72-21) to permit the legalization of commercial storage of motor vehicles/buses (UG 16C) with accessory fuel storage and motor vehicles sales and repair (UG 16B), which is contrary to §22-00. R4 zoning district.

PREMISES AFFECTED – 651-671 Fountain Avenue, Bounded by Fountain, Stanley, Euclid and Wortman Avenues, Block 4527, Lot 61, 64, 67, 74-78, 80, 82, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Peter Hirschman, Frank Angelino, Jack Freeman, Hiram Rothkrug, Kassandra Brown, Michelle Grimsley, Eurice Solig, Joyce Youmans, Todd Farber and Frank Puledino.

For Opposition: Ronald J. Dillon.

ACTION OF THE BOARD – Laid over to January 12, 2010, at 1:30 P.M., for continued hearing.

171-08-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for York Prep Realty, LLC., owner.

SUBJECT – Application June 26, 2008 – Variance (§72-21) to allow the enlargement of an existing school (*York Prep*) contrary to ZR §74-95 (City Planning Commission Housing Quality Special Permit). R8 zoning district.

PREMISES AFFECTED – 40 West 68th Street, between Central Park West and Columbus Avenue, Block 1120, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Howard Goldman.

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 December 8, 2009, at 1:30 P.M., for decision, hearing closed.

197-08-BZ

APPLICANT – Stuart A. Klein, for Carroll Gardens Realty, LLC, owner.

SUBJECT – Application July 23, 2008 – Variance (§72-21) to permit a four-story and penthouse residential building, contrary to §23-141 (FAR, open space ratio), §23-22 (number of dwelling units), §23-45 (front yard), §23-462 (side yard), and §23-631 (wall height). R4 district.

PREMISES AFFECTED – 341/349 Troy Avenue, aka 1515 Carroll Street, corner of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Stuart A. Klein.

For Opposition: Jos Scott.

ACTION OF THE BOARD – Laid over to December 15, 2009, at 1:30 P.M., for continued hearing.

299-08-BZ

APPLICANT – Sheldon Lobel, P.C., for The Lantern Group, Inc., owner.

SUBJECT – Application December 4, 2008 – Variance (§72-21) to allow for a nine-story, 104 unit community facility building (non profit institution with sleeping accommodations), contrary to floor area and use regulations (ZR §24-111, §42-00). R6/C1-4, R6/C2-4 and M1-4 zoning districts.

PREMISES AFFECTED – 3857-3861 Third Avenue, northwest intersection of Claremont Parkway and Third Avenue, block 2919, Lots 39, 42, 43, 44, Borough of Bronx.

COMMUNITY BOARD #3BX

APPEARANCES –

For Applicant: Richard Lobel and Carrol Jackson.

For Opposition: Mary Walker, Erma Peterkin, Eunice Rurse, Lori Giles.

MINUTES

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 December 15, 2009, at 1:30 P.M., for decision, hearing closed.

23-09-BZ

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

SUBJECT – Application February 12, 2009 – Special Permit (§73-622) for the enlargement of an existing one family home, contrary to open space, lot coverage and floor area (§23-141(b)) and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 114 Amherst Street, west side of Amherst Street between Hampton Avenue and Oriental Boulevard, Block 8732, Lot 71, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to November 24, 2009, at 1:30 P.M., for decision, hearing closed.

53-09-BZ

APPLICANT – Harold Weinberg, P.E., for David Salamon, owner.

SUBJECT – Application April 6, 2009 – Variance (§72-21) for the construction of a three-family home on a vacant undersized lot. This application seeks to vary floor area (§23-141); front yard (§23-45) side yard (§23-461) and parking (§25-161) in an R5 zoning district.

PREMISES AFFECTED – 540 Schenck Avenue, southwest corner of Dumont Avenue, between Schenck Avenue and Hendrix Street, Block 4075, Lot 118, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Harold Weinberg.

For Opposition: Elaine Smith Carvaway.

ACTION OF THE BOARD – Laid over to December 15, 2009, at 1:30 P.M., for continued hearing.

164-09-BZ

APPLICANT – Eric Palatnik, P.C., for Steve Palanker, owner.

SUBJECT – Application April 29, 2009 – Special Permit (§73-622) for enlargement of an existing two-family home, contrary to floor area, lot coverage and open space (§23-

141) and rear yard (ZR §23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 124 Irwin Street, between Hampton Avenue and Oriental Boulevard, Block 8751, Lot 416, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

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 November 24, 2009, at 1:30 P.M., for decision, hearing closed.

214-09-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for LAL Astor Avenue Management Co., LLC, owner.

SUBJECT – Application June 29, 2009 – Special Permit (§73-125) to allow for a 9,996 sq ft ambulatory diagnostic or treatment center which exceeds the 1,500 sq ft maximum allowable floor area set forth in ZR §22-14. R4-1 zoning district.

PREMISES AFFECTED – 1464 Astor Avenue, south side of Astor Avenue, 100' east of intersection with Fenton Avenue, Block 4389, Lot 26, 45, Borough of Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Todd Dale.

For Opposition: Thomas Lucania, Anjali Kochar, Frank Tirabasso, Michael Frittola, Delfina Franco, Karen Evangeliou, Bret Collazzi, Sal Castorina and Michael McCabe.

ACTION OF THE BOARD – Laid over to January 12, 2010, at 1:30 P.M., for continued hearing.

225-09-BZ

APPLICANT – Antonio S. Valenziano, AIA, for Beacon Luigi, LLC, owner.

SUBJECT – Application July 14, 2009 – Variance (§72-21) for the construction of a single family residence on a vacant undersized lot, contrary to front yard (§23-45) regulations. R2 (LDGM) zoning district.

PREMISES AFFECTED – 45 Beacon Avenue, Beacon Avenue c/o Luigi Place, Block 948, Lot 27, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Antonio S. Valenzino.

MINUTES

For Opposition: Mary Ann Clark.

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 December
8, 2009, at 1:30 P.M., for decision, hearing closed.

231-09-BZ

APPLICANT – Valerie G. Campbell, Esq. c/o Kramer
Levin Naftalis & Frankel LLP for 71 Laight Street, LLC,
owner.

SUBJECT – Application July 21, 2009 – Variance (§72-21)
to allow for the construction of a six-story mixed use
building, contrary to use and parking regulations (ZR §42-
10, §13-10). M1-5/TMU Special District.

PREMISES AFFECTED – 412-414 Greenwich Street,
Southwest corner of Laight and Greenwich Streets, on the
block bounded by Greenwich, Laight, Washington and
Hubert Streets. Block 217, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Michael Sillerman and Alan Poeppel.

ACTION OF THE BOARD – Laid over to December
8, 2009, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.