
BULLETIN

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DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

Commissioners

Jeffrey Mulligan, *Executive Director*

Roy Starrin, *Deputy Director*

Margaret P. Stix, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006

HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006

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TELEPHONE - (212) 788-8500

FAX - (212) 788-8769

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77-08-BZ

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78-08-BZ

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79-08-BZ

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81-08-A

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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

MAY 6, 2008, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 6, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

184-94-BZ

APPLICANT – Renanim Manhattan, Incorporated, for Vertical Properties, LLC, owner.

SUBJECT – Application March 20, 2007 – Extension of Term/Waiver to permit a (UG3) nursery school on the ground floor of a five story and cellar mixed use building in a C8-4 zoning district which expired on June 13, 2005.

PREMISES AFFECTED – 336 East 61st Street, south side of East 61st Street, between First and Second Avenues, Block 1435, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #8M

24-96-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Leonard Franzblau, owner.

SUBJECT – Application January 23, 2008 – Application filed pursuant to §§11-411 & 11-413 to extend the term of a variance, which expired on October 7, 2007, permitting commercial use in an R7-2 residential zoning district and non-compliance regarding lot coverage and rear yard requirements, and to amend the variance to permit a change in use from a retail store (use group 6) to an eating and drinking establishment (use group 6).

PREMISES AFFECTED – 213 Madison Street, North side of Madison Street between Jefferson Street and Essex Street, Block 271, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #3M

306-05-BZY

APPLICANT – Stuart A. Klein, Esq., for Manuel Scharf, owner.

SUBJECT – Application October 12, 2005 – Extension of Time to complete construction (11-331) of a major/minor development under the prior Zoning District regulations.

PREMISES AFFECTED – 206A Beach 3rd Street, Block 15604, Lot 34, Borough of Queens.

COMMUNITY BOARD #14Q

APPEALS CALENDAR

265-07-A

APPLICANT – Abigail Patterson, for West 70th Associates, owner.

SUBJECT – Application November 19, 2007 – An appeal challenging the Department of Building's interpretation that the rear yard structure (porch) is a permitted obstruction that complies with Section 23-44. R8B zoning district.

PREMISES AFFECTED – 57 West 70th Street, north side of 70th Street, 160' east of corner formed by 70th Street and Columbus Avenue, Block 1123, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #7M

MAY 6, 2008, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 6, 2008, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

248-07-BZ

APPLICANT – Eric Palatnik, for Bhola Trilok, owner.

SUBJECT – Application October 31, 2007 – Variance (§72-21) for legalization of three story, two family home, in an R5 zoning district, which was built on an undersized lot contrary to section (23-33) for minimum lot width.

PREMISES AFFECTED – 32-15 60th Street, between Northern Boulevard and 32nd Avenue, Block 1161, Lot 29, Borough of Queens.

COMMUNITY BOARD #1Q

257-07-BZ

APPLICANT – Gordon J. Davis c/o Dewey & LeBoeuf, for The Mount Sinai Hospital and Mount Sinai, owners; One Gustave L. Levy Place, lessees.

SUBJECT – Application November 17, 2007 – Variance (§72-21) to permit the construction of an eleven-story, approximately 269,000 square foot Center for Science and Medicine Building at the Mount Sinai Medical Center. The proposal is contrary to sections 24-522 (height, setbacks, and sky exposure plane for community facility), 24-11 (community facility lot coverage), and 24-54 (community facility tower coverage).

PREMISES AFFECTED – 3 East 101st Street, 11 East 101st Street, 65 and 4-20 East 102nd Street, Block 1607, Lots 3, 5, 59, Borough of Manhattan.

COMMUNITY BOARD #11M

12-08-BZ

CALENDAR

APPLICANT – Sheldon Lobel, P.C., for Empire State Development Corp., owner; Harlem Center, LLC, lessee.

SUBJECT – Application January 3, 2008 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment on a portion of the cellar and ground floor in a ten-story commercial building. The proposal is contrary to section 32-10. C4-7 district.

PREMISES AFFECTED – 317 Lenox Avenue aka 105 W. 125th Street, west side of Lenox Avenue, between 125th Street and 126th Street, Block 1910, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #10M

25-08-BZ

APPLICANT – Eric Palatnik, P.C., for Torah Academy For Girls, owner.

SUBJECT – Application March 25, 2006 – Variance (§72-21) to permit the enlargement of the existing school approved by BSA in a prior grant in 2002 (158-02-BZ). The proposal is contrary to sections 24-11 (lot coverage), 24-34 (minimum front yard), 24-382 (minimum rear yard), and 24-521 (height, setback and sky exposure plane). R4-1 district.

PREMISES AFFECTED – 444 Beach 6th Street, between Jarvis and Meehan Avenues, Block 1559, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

52-08-BZ

APPLICANT – Dennis D. Dell' Angelo, for Yossi Amar, owner.

SUBJECT – Application March 7, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and lot coverage (23-141); side yards (23-461) and rear yard requirement (23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 3935 Bedford Avenue, east side of Bedford Avenue, Block 6811, Lot 72, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, APRIL 8, 2008
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

710-55-BZ

APPLICANT – Vincent L. Petraro, PLLC, for Tserpes Realty LLC, owner.

SUBJECT – Application October 19, 2007 – Extension of Term for a gasoline service station (Emporium) which expired on January 10, 2008 in an R3-2 zoning district.

PREMISES AFFECTED – 246-02 South Conduit Avenue, intersection of South Conduit Avenue & 139th Street, Block 13622, Lot 5, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Steven Simich.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of term for a previously granted variance permitting a gasoline service station which expired on January 10, 2008; and

WHEREAS, a public hearing was held on this application on February 12, 2008, after due notice by publication in *The City Record*, with a continued hearing on March 18, 2008, and then to decision on April 8, 2008; and

WHEREAS, Community Board 13, Queens, has recommended 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, the site is located at the intersection of South Conduit Avenue and 246th Street; and

WHEREAS, the site is located in an R3-2 zoning district and is occupied by a gasoline service station and accessory convenience store; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 20, 1955, when, under the subject calendar number, the Board granted a variance for the reconstruction of an existing gasoline service station for a term of 15 years; and

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

WHEREAS, on March 30, 1999, the term was extended

for ten years, from the date of its expiration on January 10, 1998; and

WHEREAS, most recently, on June 28, 2000, the grant was reopened to permit an extension of time to complete construction and obtain a new certificate of occupancy; and

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

WHEREAS, during its site examination the Board noted the placement of curb cuts that were not approved under the original grant; and

WHEREAS, the applicant states that a Department of Transportation (“DOT”) project extending a traffic median along 246th Street hindered safe access into the subject site though the two curb cuts approved under the original grant, and

WHEREAS, the applicant further states that DOT modified the curb cuts to alleviate the constrained site accessibility created by the traffic median; and

WHEREAS, the applicant submitted a revised site plan accurately depicting the current curb cuts; and

WHEREAS, at the Board’s request, the applicant confirmed that its signage complies with C1 zoning district regulations; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on December 20, 1955, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the term for ten years from January 10, 2008, to expire on January 10, 2018, *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received January 11, 2008”- (4) sheets; and *on further condition*:

THAT the term of this grant shall expire on January 10, 2018;

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

THAT signage shall comply with C1 zoning district regulations;

THAT a revised certificate of occupancy shall be obtained by October 8, 2008;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (N.B. 3148-55)

Adopted by the Board of Standards and Appeals, April 8, 2008.

MINUTES

617-80-BZIV

APPLICANT – Eric Palatnik, P.C., for J & S Simcha, Incorporated, owner.

SUBJECT – Application February 12, 2008 – Extension of Time to Complete Construction and to obtain a Certificate of Occupancy for an existing non-complying catering establishment (UG9) in an M1-1 zoning district which expired on March 14, 2008.

PREMISES AFFECTED – 770/780 McDonald Avenue, west side of McDonald Avenue, 20’ south of Ditmas Avenue, Block 5394, Lots 1 & 11, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Trevis Savage.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of the time to complete construction and obtain a certificate of occupancy which expired on March 14, 2008; and

WHEREAS, a public hearing was held on this application on March 18, 2008, after due notice by publication in *The City Record*, and then to decision on April 8, 2008; and

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

WHEREAS, the subject premises is located on the west side of McDonald Avenue, 20 feet south of Ditmas Avenue; and

WHEREAS, the site is occupied by a catering establishment building and is located within an M1-1 zoning district; and

WHEREAS, on September 9, 1980, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to legalize the enlargement of an existing building used by a catering establishment, which exceeds the permitted floor area ratio and encroaches into the rear yard, for a term of ten years; and

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

WHEREAS, on July 24, 2001, the Board approved a modification to the plans to permit certain modifications including a height increase of 5’-0” to accommodate an air conditioning system and the addition of an elevator; and

WHEREAS, subsequent grants limited the amount of time to complete construction and obtain a certificate of occupancy to terms of two years; and

WHEREAS, most recently, on March 14, 2006, the Board permitted a two-year extension of time to complete

construction and obtain a certificate of occupancy, which expired on March 14, 2008; and

WHEREAS, the current application seeks a two-year extension of time to complete construction; and

WHEREAS, the applicant represents that approximately 80 percent of the construction has been completed, but that the project has been delayed due, in part, to modifications in the building design; and

WHEREAS, the applicant submitted photographs and financial statements documenting the work completed and the associated expenditures; and

WHEREAS, additionally, the applicant provided a timetable, which reflects the amount of work needed to be completed and the associated projected costs; and

WHEREAS, the Board notes that the applicant has performed a significant amount of construction since the last extension and finds that a two-year extension of time is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated March 14, 2006, so that as amended this portion of the resolution shall read: “to grant an extension of the time to complete construction and obtain a certificate of occupancy for a term of two years from the expiration of the last grant, to expire on March 14, 2010; *on condition:*

THAT construction be completed and a certificate of occupancy be obtained by March 14, 2010;

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. 300540029)

Adopted by the Board of Standards and Appeals, April 8, 2008.

34-99-BZ, Vol. II

APPLICANT – Rothkrug, Rothkrug & Spector, LLP for Ruach Chaim Institute, owner.

SUBJECT – Application March 14, 2008 – Extension of Time to Complete Construction of a (UG4) community use facility (Yeshiva) in an R-2 zoning district which expired on February 27, 2005.

PREMISES AFFECTED – 1189 East 29th Street, a/k/a 2901 Avenue I, North east corner of East 29th Street and Avenue L, Block 7629, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Trevis Savage.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

MINUTES

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a reopening of a previously granted variance permitting the construction of a community facility for an extension of time to complete construction, which expired on February 27, 2005; and

WHEREAS, a public hearing was held on this application on April 1, 2008, after due notice by publication in *The City Record*, and then to decision on April 8, 2008; and

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

WHEREAS, the site is located on the northeast corner of 29th Street and Avenue L; and

WHEREAS, the site is located in an R2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 27, 2001 when, under the subject calendar number, the Board granted a variance permitting the construction of a yeshiva; and

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

WHEREAS, the applicant represents that approximately 25 percent of the construction has been completed and that 50 percent of the construction budget has been committed or expended, but that the project has been delayed due, in part, to delays in securing financing; and

WHEREAS, the applicant submitted photographs and financial statements documenting the work completed and the associated expenditures; and

WHEREAS, additionally, the applicant provided a timetable, which reflects the amount of work needed to be completed; and

WHEREAS, pursuant to ZR § 72-01, the Board may permit an extension of time to complete construction; and

WHEREAS, according to Section 1-05(g) of the Board's Rules of Practice and Procedure, the Board may hear an application for an extension of time to obtain a certificate of occupancy that is filed more than 30 days subsequent to the expiration date provided that a waiver is requested in the application; and

WHEREAS, the applicant has requested the Board to waive the Rules of Practice and Procedure; and

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

Therefore it is Resolved that the Board of Standards and Appeals, *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on February 27, 2001, so that as amended this portion of the resolution shall read: "to permit a three-year extension of time to complete construction, *on condition* that the use and operation shall substantially conform to the previously approved drawings; and *on further*

condition:

THAT substantial construction be completed by April 8, 2010;

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

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

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

(DOB Application No. 300652531)

Adopted by the Board of Standards and Appeals, April 8, 2008.

265-98-BZ, Vol. II

APPLICANT – Sheldon Lobel, P.C., for Milford Tile, Incorporated, owner.

SUBJECT – Application November 19, 2007 – Extension of Term of a previously granted Variance (§72-21) to permit the operation of an existing contractor's yard for storage, sales and display of tiles with accessory parking (UG17) in an R5 zoning district which expired on November 29, 2007; Extension of Time to obtain a Certificate of Occupancy which expired on June 22, 2000 and a waiver of rules.

PREMISES AFFECTED – 950 Glenmore Avenue, southwest corner of the intersection of Glenmore Avenue and Crystal Avenue, Block 4210, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Elizabeth Safian.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to May 6, 2008, at 10 A.M., for decision, hearing closed.

120-01-BZ

APPLICANT – Sheldon Lobel, P.C., for Anthony Ariola, owner.

SUBJECT – Application January 23, 2008 – Extension of Time to obtain a Certificate of Occupancy for a previously granted Variance (§72-21) to permit the commercial use (UG6) in an existing two-story building, which expired on May 14, 2006, located in an R4 zoning district and a Waiver of the rules.

PREMISES AFFECTED – 134-02 Cross Bay Boulevard, western side of Cross Bay Boulevard, between Gold and Silver Roads, Block 11374, Lot 134, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES –

MINUTES

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Laid over to May 6, 2008, at 10 A.M., for continued hearing.

774-55-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for FGP West Street LLC c/o Citibank, N.A., owner.

SUBJECT – Application February 26, 2008 – Extension of Term/Waiver of the rules for a previously granted variance to permit the operation of a (UG8) parking lot, for more than five cars, for employees and customers of a bank (Citibank) on the adjoining lot which expired on January 31, 2003 in R-5 and C1-2 zoning district.

PREMISES AFFECTED – 2155-2159 Newbold Avenue, north side of Newbold Avenue between Olmstead and Castle Hill Avenues, Block 3814, Lot 59, Borough of Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Elizabeth Larsen.

ACTION OF THE BOARD – Laid over to May 6, 2008, at 10 A.M., for continued hearing.

127-05-BZII

APPLICANT – Sheldon Lobel, P.C., for Church Avenue Realty, LLC, owner.

SUBJECT – Application January 30, 2008 – Extension of Term/Extension of Time to obtain C of O (§73-243) to reopen and extend the term for an accessory drive-thru facility at an existing eating and drinking establishment located in a C1-1/R5 zoning district.

PREMISES AFFECTED – 9216 Church Avenue, aka 9220 Church Avenue and 526 East 93rd Avenue, southeast side of Church Avenue between East 92nd Street and the intersection of East 93rd Street and Linden Boulevard, Block 4713, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Laid over to May 13, 2008, at 10 A.M., for continued hearing.

267-07-A

APPLICANT – Gary D. Lenhart, for The Breezy Point Cooperative, owner; Deirdre Radtke, lessee.

SUBJECT – Application November 26, 2007 – Reconstruction and enlargement of existing single family dwelling lying in the bed of a mapped street is contrary to General City Law Section 35. The upgrade of an existing private disposal system partially in the bed of a mapped street is contrary to General City Law Section 35 and Buildings Department Policy. R4 Zoning District.

PREMISES AFFECTED – 49 W. Market Street, south side W. Market Street at intersection of mapped Bayside Drive, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated October 29, 2007, acting on Department of Buildings Application No. 402659262 reads in pertinent part:

“A-1 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; and

A-2 The proposed upgraded private disposal system is in the bed of a mapped street contrary to General City Law Article 3, Section 35 and the Department of Buildings Policy; and

WHEREAS, this application requests permission to reconstruct and enlarge an existing single-family home and upgrade an existing private sanitary system partially located within the bed of a mapped street (at the intersection of Bayside Drive and Rockaway Point Boulevard); and

WHEREAS, a public hearing was held on this application on March 11, 2008, after due notice by publication in the *City Record*, and then to decision on April 8, 2008; and

WHEREAS, by letter dated March 17, 2008, the Department of Transportation (DOT) states that it has reviewed the application and has no objections; and

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

WHEREAS, by letter dated June 18, 2007, the Fire Department states that it has reviewed the above application and has no objection; and

WHEREAS, by letter dated January 17, 2008, the Department of Environmental Protection states that it reviewed the above application and has no objections; and

WHEREAS, based upon its review of the record, the Board has determined that the requested waiver is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated October 29, 2007, acting on Department of Buildings Application No. 402659262, 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 November 26, 2007,” - 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;

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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, April 8, 2008.

287-07-A

APPLICANT – Greenberg Traurig by Jay A. Segal, Esq., for Jack Bendheim, owner.

SUBJECT – Application December 21, 2007 – Proposed construction of an accessory tennis court located partially within the bed of a mapped street (West 248th Street) contrary to General City Law Section 35. R1-1 SNAD.

PREMISES AFFECTED – 697 West 247th Street, north side of West 247th Street between Palisade Avenue and Independence Avenue, Block 5937, Lot 300, Borough of Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Margo Flug.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Bronx Borough Commissioner, dated November 26, 2007, and updated on January 8, 2008, acting on Department of Buildings Application No. 200973660, reads in pertinent part:

“Proposed construction in the bed of a mapped street, as indicated on tax map and/or Zoning Map, and/or survey is contrary to General City Law Section 35,” and

WHEREAS, a public hearing was held on this application on February 26, 2008, after due notice by publication in the *City Record*, with a continued hearing on March 18, 2008, and then to closure and decision on April 8, 2008; and

WHEREAS, this application seeks permission to build a tennis court with retaining walls, a portion of which would be located within the bed of a mapped but unbuilt street (West 248th Street); and

WHEREAS, the proposed tennis court is to be located on portions of two zoning lots (Block 5937, Lot 300 and Block 5926, Lot 300) that are contiguous, but which cannot be merged due to the intervening mapped, but unbuilt street bed of West 248th Street; and

WHEREAS, by letter dated January 15, 2008, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated February 4, 2008, the

Department of Environmental Protection (DEP) states that it has reviewed the application and advises the Board that there is an Adopted Drainage Plan No. 40-K which calls for a future 15-in. diameter combined sewer in the bed of West 248th Street between Palisade Avenue and Independence Avenue; and

WHEREAS, therefore, DEP requests that the applicant provide a minimum 32’-0” corridor in the bed of West 248th Street between Palisade Avenue and Independence Avenue for the purpose of installation, maintenance, and/or reconstruction of the future 15-in. diameter combined sewer; and

WHEREAS, by letter dated March 10, 2008, the applicant provided a revised site plan providing an approximately 30’-0” wide sewer corridor on the southern side of West 248th Street, including a northerly portion of Block 5926, Lot 298 and excluding a portion of Block 5926, Lot 300 measuring 62’-0” by 7’-0”;

WHEREAS, by letter dated March 24, 2008, DEP notes that it has reviewed the revised site plan and finds it acceptable; and

WHEREAS, by letter dated March 20, 2008, the Department of Transportation (DOT) states that it has reviewed the application and has no objections; and

WHEREAS, the Board notes that DOT’s March 20, 2008 letter indicates that the applicant’s property is not within its ten-year capital plan; and

WHEREAS, as this property is located within an NA-2 Special Natural Area District, authorization by the City Planning Commission is needed for modifications of topographic features, plantings, and site alteration; and

WHEREAS, at hearing the Board asked the applicant why the tennis court is not situated to avoid crossing the bed of the mapped, but unbuilt street and the sewer corridor; and

WHEREAS, in response, the applicant stated that siting the tennis court at an alternative location was not possible without affecting protected topographical features or plantings; and

WHEREAS, the Department of Buildings has required the owner to execute a Restrictive Declaration prior to the issuance of an alteration permit for the construction of the tennis court; and

WHEREAS, the Restrictive Declaration requires the owner to remove the tennis court from both parcels if the parcels are conveyed into separate ownership; and

WHEREAS, the Restrictive Declaration would not be necessary if the tennis court did not overlap the bed of a mapped but unbuilt street, in which case the zoning lots could be merged and the tennis court would qualify as an accessory use to a residential use; and

WHEREAS, based upon the above, the applicant has submitted adequate evidence to warrant this approval; and

Therefore it is Resolved that the decision of the Bronx Borough Commissioner, dated January 8, 2008, acting on Department of Buildings Application No. 200973660, is hereby modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received March 21, 2008”-(1) sheet; that the proposal

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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 City Planning Commission approval shall be obtained before the issuance of an alteration permit;

THAT the Restrictive Declaration and sewer easement be duly recorded in the Office of the County Clerk prior to the issuance of an alteration permit and be referenced on the Certificate of Occupancy;

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, April 8, 2008.

290-07-A

APPLICANT – Valentino Pompeo, for Breezy Point Cooperative, Inc., owner; Mary Jean Farrell-Halliday, lessee.

SUBJECT – Application December 27, 2007 – Proposed reconstruction and enlargement of an existing single family home located in the bed of a mapped street contrary to Section 35 GCL, not fronting on a legally mapped street, contrary to Section 36 GCL and the proposed upgrade of an existing private disposal system located within the bed of a mapped street contrary to Buildings Department Policy. R4 Zoning district.

PREMISES AFFECTED – 10 Clinton Walk, east of Clinton Walk, north of Rockaway Point Boulevard, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated December 18, 2007, acting on Department of Buildings Application No. 410025404 reads in pertinent part:

“A-1 The site and building are located in the bed of a mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 35 of the General City Law; and

A-2 The site and building is not fronting on an official mapped street therefore no permit or

Certificate of Occupancy can be issued as per Art. 3, Section 36 of the General City Law; also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon legally mapped street or frontage space and therefore contrary to Section 27-291 of the Administrative Code of the City New York; and

A-3 The proposed upgraded private disposal system is in the bed of a mapped street is contrary to the Department of Buildings Policy;” and

WHEREAS, this application requests permission to reconstruct and enlarge an existing single-family home and upgrade an existing private sanitary system partially located within the bed of a mapped street (Twelfth Avenue); and

WHEREAS, a public hearing was held on this application on March 11, 2008, after due notice by publication in the *City Record*, and then to decision on April 8, 2008; and

WHEREAS, by letter dated March 14, 2008, the Department of Transportation (DOT) states that it has reviewed the application and has no objections; and

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

WHEREAS, by letter dated February 8, 2008, the Fire Department states that it has reviewed the above application and has no objection; and

WHEREAS, by letter dated January 17, 2008, the Department of Environmental Protection states that it reviewed the above application and has no objections; and; and

WHEREAS, based upon its review of the record, the Board has determined that the requested waiver is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated December 18, 2007, acting on Department of Buildings Application No. 410025404 is modified by the power vested in the Board by Sections 35 and 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received December 27, 2007,” - 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 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, April 8, 2008.

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123-07-A

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

SUBJECT – Application May 15, 2007 – Proposed construction of a single family home not fronting on a legally mapped street contrary to General City Law Section 36. R6 Zoning District.

PREMISES AFFECTED – 723R Driggs Avenue, south corner of Driggs Avenue and South First Street, Block 2407, Lot 141, Borough of Brooklyn.

COMMUNITY BOARD #1BK

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 May 13, 2008, at 10 A.M., for decision, hearing closed.

208-07-BZY

APPLICANT – Law Office of Fredrick Becker, for JN520, LLC/A Fishoff, owner.

SUBJECT – Application August 23, 2007 – Extension of time (§11-331) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on July 25, 2007.

PREMISES AFFECTED – 74 Grand Avenue (a/k/a 72-96 Grand Avenue) Grand Avenue between Myrtle Avenue and Park Avenue, Block 1892, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Lyra Altman.

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 April 15, 2008, at 10 A.M., for decision, hearing closed.

64-08-A

APPLICANT – Law Office of Fredrick A. Becker, for JN520 LLC, owners.

SUBJECT – Application March 28, 2008 – An Appeal seeking a determination that the property owner has acquired a common law vested right to continue construction commenced under the prior R6 Zoning District. R6B Zoning District.

PREMISES AFFECTED – 74 Grand Avenue (aka 72-96 Grand Avenue) Grand Avenue between Myrtle Avenue and Park Avenue, Block 1892, Lots 48 & 46, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Lyra J. Altman.

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 May 13, 2008, at 10 A.M., for decision, hearing closed.

168-07-A

APPLICANT – Law Office of Fredrick A. Becker, for 1479 Rosedale, LLC, owner.

SUBJECT – Application June 18, 2007 – Appeal seeking a determination that the owner of the premises has acquired a common law vested right to continue the development commenced under the prior R6 Zoning District.

PREMISES AFFECTED – 1479 Rosedale Avenue, Rosedale Avenue between Mansion Street and Cross Bronx Expressway, Block 3895, Lot 58, Borough of Bronx.

COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Lyra J. Altman.

For Opposition: Zenali Tirado, Francisco M. Gonzalez, Nerva Martinez and Carlos Aladovar.

For Administration: Lisa Orrantia.

ACTION OF THE BOARD – Laid over to May 20, 2008, at 10 A.M., for continued hearing.

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207-07-A

APPLICANT – Agusta & Ross, for Davis & Warshow, Inc., owner.

SUBJECT – Application August 22, 2007 – Proposed construction of a four story commercial warehouse located within the bed of mapped street (48th St.) contrary to Section 35 of the General City Law Section 35. M3-1 Zoning District.

PREMISES AFFECTED – 48-20 57th Avenue, westerly side of 49th Street at 57th Avenue, Block 2564, Lot 1, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Mitchell Ross.

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 April 15, 2008, at 10 A.M., for decision, hearing closed.

255-07-A

APPLICANT – Eric Palatnik, P.C., for Yee Kon LLC, owner.

SUBJECT – Application April 8, 2008 – Proposed construction of a daycare center located within the bed of mapped street (Francis Lewis Boulevard contrary to General City Law Section 35. R3-2 Zoning district.

PREMISES AFFECTED – 40-54 Francis Lewis Boulevard (aka 196-23 42nd Ave.) corner of Francis Lewis Boulevard and 42nd Avenue, Block 5361, Lots 10 & 12, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Jerry Iannece, Henry Euler, Terri Pouymari, Dennis Devati, Judy Gagliano, Maria Denoti and Marie Russo.

ACTION OF THE BOARD – Laid over to May 13, 2008, at 10 A.M., for continued hearing.

259-07-A

APPLICANT – George N. Mihalios, Esq., for Hikmat Sultan, owner.

SUBJECT – Application November 8, 2007 – Proposed construction of an eight story mixed use building with a community facility and parking on the ground floor within the bed of mapped street (Ash Drive) contrary to General City Law Section 35. R6 Zoning District.

PREMISES AFFECTED – 41-97 Parsons Boulevard, Block 5374, Lot 11, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: George N. Mihalios.

ACTION OF THE BOARD – Laid over to May 13,

2008, at 10 A.M., for continued hearing.

Jeffrey Mulligan, Executive Director

Adjourned: 10:30A.M.

REGULAR MEETING TUESDAY AFTERNOON, APRIL 8, 2008 1:30 P.M.

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

ZONING CALENDAR

311-06-BZ thru 313-06-BZ CEQR #07-BSA-040K

APPLICANT – Rothkrug, Rothkrug, & Spector, LLP, for White Star Lines LLC.

SUBJECT – Application December 4, 2006 – Zoning variance under §72-21 to allow three, four (4) story residential buildings containing a total of six (6) dwelling units, contrary to use regulations (§42-10); M1-1 district.

PREMISES AFFECTED – 300/302/304 Columbia Street, Northwest corner of Columbia Street and Woodhull Street, Block 357, Lots 38, 39, 40. Borough of Brooklyn.

COMMUNITY BOARD #6BK

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 Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decisions of the Brooklyn Borough Commissioner, dated November 3, 2006, acting on Department of Buildings Application Nos. 302189600, 302189593, and 30218984, each read in pertinent part:

“Proposed two-family dwelling (UG 2) in an M1-1 zoning district is contrary to Section 42-10 of the NYC ZR and must be referred to the BSA.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, the construction of three attached two-family residential buildings, which is contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on August 14, 2007 after due notice by publication in the *City Record*, with a continued hearing on September 18, 2007, and then to decision on April 8, 2008; and

WHEREAS, the premises and surrounding area had site

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and neighborhood examinations by Chair Srinivasan and Vice-Chair Collins; and

WHEREAS, Community Board 6, Brooklyn, recommends disapproval of the application, citing concerns about the design and materials used for the building; and

WHEREAS, the site is located on the northwest corner of Columbia Street and Woodhull Street within an M1-1 zoning district; and

WHEREAS, the site consists of two zoning lots – Lots 1 and 2 - proposed to be combined into a single zoning lot that will be divided into three tax lots – Lots 38, 39, and 40; each tax lot will be occupied by one two-family attached/semi-detached building; and

WHEREAS, the site is currently vacant; and

WHEREAS, the three proposed buildings (together, the “Proposed Building”) will have four stories and a combined floor area of 4,665.6 sq. ft. (2.20 FAR); and

WHEREAS, an earlier iteration of the proposal provided for interior connections from three of the dwelling units to the associated cellars below, and also characterized the top floor as attic space; and

WHEREAS, the Board directed the applicant to confirm whether or not those two levels and the floor space associated with them would count towards the floor area calculations; and

WHEREAS, in response, the applicant revised the plans to (1) eliminate the internal connections to the cellars and (2) to characterize the top floor as a fourth floor and to include the floor area associated with it in the floor area calculations; and

WHEREAS, the site has a width of 36 feet, a depth of 59 feet, and a lot area of 2,124 sq. ft.; and

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

WHEREAS, the applicant represents that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site has a narrow width; and (2) the site is small; and

WHEREAS, as to the width, the applicant represents that the combined site has a depth of 36 feet from the Columbia Street frontage; prior to the merger of the lots, the existing Lots 1 and 2 have widths of 59 feet and depths of 16 feet and 20 feet, respectively; and

WHEREAS, additionally, the applicant represents that the combined site, with a length of 59 feet and a lot area of 2,124 sq. ft., is small; and

WHEREAS, the applicant represents that these conditions cannot accommodate a conforming use; and

WHEREAS, specifically, the applicant represents that a site of this width and size would not be able to accommodate facilities for loading and storing goods for a conforming warehouse or manufacturing use; and

WHEREAS, further, the applicant represents that there is a disproportionately high cost per square foot of construction associated with the small size of any conforming development at the site; and

WHEREAS, as to the uniqueness of this condition, the applicant represents that other conforming uses in the zoning

district on similarly narrow lots are either (1) part of larger sites under common ownership or (2) old buildings occupied by established uses; and

WHEREAS, the applicant represents that only four of the 21 lots on the subject block are used for manufacturing/industrial or commercial uses and two of these active uses occupy considerably larger lots; and

WHEREAS, of the four noted lots: (1) Lot 13 is occupied by a one-story iron warehouse, with 150 feet of frontage on Hamilton Avenue and 50 feet of frontage on Summit Street for a total lot area of 10,550 sq. ft., (2) Lot 29 is occupied by a three-story brick factory, with 75 feet of frontage on Summit Street, a depth of 88.67 feet, and a total lot area of 6,438 sq. ft.; (3) Lot 4 is occupied by a one-story brick garage; and (4) Lot 3 is occupied by a three-story mixed-use commercial/manufacturing building; and

WHEREAS, the applicant provided information on the sites within the M1-1 zoning district within a 400-ft. radius of the site, which documents these representations; and

WHEREAS, specifically, the applicant provided a survey of vacant lots surrounding the site, which reflects that there has been little to no construction on small lots within the M1-1 zoning district during the last 50 years; and

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

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

WHEREAS, the applicant submitted a feasibility study analyzing a one-story building for a conforming manufacturing or commercial use; and

WHEREAS, the applicant concluded that the as of right scenario would not realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject lot’s unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

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

WHEREAS, the applicant states that the proposed residential use is consistent with the character of the area, which includes many other residential uses, including those across the street, the adjacent building to the north, and others on the subject block; and

WHEREAS, the applicant notes that the block directly across Columbia Street is within a C2-3 (R6) zoning district; and

WHEREAS, the applicant states that the Proposed Building’s height and bulk configurations were designed to be

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compatible with the character of the surrounding area and comply with R6 zoning district bulk regulations; and

WHEREAS, four lots on the block are occupied by three-story mixed-use residential/commercial buildings and the lot adjacent to the north is occupied by a five-story multiple dwelling building; and

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

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6 NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA040K, dated November 28, 2006; and

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

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the applicant: November 28, 2006 EAS and the January 2007 Phase I Environmental Site Assessment Report; and November 23, 2007 Air Quality and Noise submissions; and

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

WHEREAS, a DEP Restrictive Declaration (the "DEP RD") was executed on August 1, 2007 and submitted for proof of recording on August 28, 2007 and requires that hazardous materials concerns be addressed; and

WHEREAS, DEP has determined that there would not be any hazardous materials and noise impacts from the subject

proposal, based on the implementation of the measures cited in the DEP RD and the applicant's agreement to the conditions noted below; and

WHEREAS, with respect to potential air quality impacts from the Brooklyn Battery Tunnel ventilation building (the "ventilation building") on the proposed project site, the applicant's environmental consultant provided an air quality study which was conducted in 2007 for a proposed rezoning application for a site at 45 Summit Street (ULURP No. C060477K); and

WHEREAS, the proposed rezoning would facilitate the development of a four-story residential building ranging in height from 43 feet to 55 feet on a zoning lot that at its shortest dimension would be located 190 feet from the ventilation building; and

WHEREAS, the air quality study concluded that no ambient air quality standards would be violated based in part on the distance from the ventilation building to the proposed residential building and that the proposed residential building at 45 Summit Street, with a height ranging from 43 feet to 55 feet, would be shorter than the emissions stacks of the ventilation building, with a height of 90 feet; and

WHEREAS, the study was approved by the Department of City Planning's (DCP) Environmental Assessment & Review Division in 2007; and

WHEREAS, the Board notes that the subject site is located farther away (approximately 380 feet) from the ventilation building than the Summit Street site is; and

WHEREAS, the Board accepts the consultant's determination that no ambient air quality standards would be violated at this distance from the ventilation building, based on the information provided in the 2007 air quality study; and

WHEREAS, further, the applicant represents that based on the ambient noise measurements taken by the consultant, DEP concurred with the consultant that the required level of attenuation is 35 dBA in order to obtain an interior noise level of 45 dBA in a closed-window condition; 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 based on the conditions set forth in the Restrictive Declaration; and

WHEREAS, based upon the above, the Board agrees that the findings required under ZR § 73-49 have been met; 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, on a site within an M1-1 zoning district, the construction of three attached two-family residential buildings, which is contrary to ZR § 42-10 *on condition* that any and all

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work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 20, 2007" – six (6) sheets; and *on further condition*:

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

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

THAT the applicant will provide windows with an Outdoor-Indoor Transmission Class rating of 35 dBA or greater to achieve the necessary window attenuation with an alternate means of ventilation;

THAT the following are the bulk parameters of the Proposed Building: four stories, 4,665.6 sq. ft. of floor area (2.20 FAR), a street wall and total height of 43 feet, and six dwelling units, all as indicated on the BSA-approved plans;

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

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, April 8, 2008.

158-07-BZ

CEQR #07-BSA-098Q

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for 184-20 Union Turnpike Realty, LLC, owner.

SUBJECT – Application June 11, 2007 – Variance (§72-21) to allow a one-story commercial retail building (UG 6), contrary to use regulations (§22-10). R1-2 district.

PREMISES AFFECTED – 184-20 Union Turnpike, 110' west of southwest corner of the intersection of Union Turnpike and Chevy Chase Street, Block 7248, Lot 39, Borough of Queens.

COMMUNITY BOARD #8Q

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 Montanez.....5
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Superintendent, dated May 17, 2007, acting on Department of Buildings Application No. 402315320, reads in pertinent part:

"Proposed retail store (Use Group 6) located in an R1-2 district is contrary to Section 22-10 Z.R. and must be referred to the Board of Standards and Appeals;" and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R1-2 zoning district, the reconstruction of a one-story commercial building (Use Group 6) which does not conform to district use regulations, contrary to ZR § 22-10; and

WHEREAS, a public hearing was held on this application on October 30, 2007, after due notice by publication in *The City Record*, with continued hearings on January 8, 2008, February 12, 2008, and March 4, 2008, and then to decision on April 8, 2008; and

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

WHEREAS, Community Board 8, Queens, recommends approval of this application, with the following conditions: (1) that a refrigerated garbage unit be maintained onsite if the establishment sells food; (2) that no garbage pick-up be permitted during evening hours; and (3) the business not operate after 11:00 p.m.; and

WHEREAS, certain community members submitted testimony that reiterates the Community Board's concerns and also notes concerns about increased traffic around the site and the potential incompatibility of the proposed use with the adjacent residential uses; and

WHEREAS, the subject site is located within an R1-2 zoning district on the southwest corner of Union Turnpike and Chevy Chase Street, and

WHEREAS, the site has a width of approximately 103 feet at its Chevy Chase Street frontage, a width of approximately 110 feet at its Union Turnpike frontage, and a total lot area of approximately 11,319 sq. ft.; and

WHEREAS, the site was formerly occupied by a one-story dry cleaning establishment which was partially damaged by fire in 2002; the building shell has been reconstructed and is proposed to be completed pursuant to the subject proposal; and

WHEREAS, the applicant proposes to reconstruct the one-story building on the existing footprint to have 3,600 sq. ft. of floor area (0.32 FAR) a height of 18 feet (excluding the decorative parapet), and 12 parking spaces onsite; the building will be occupied by Use Group 6 retail use; and

WHEREAS, as noted above, the proposal requires a use waiver; thus, the instant variance application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site with a conforming development: (1) the history of commercial use at

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the site; (2) the close proximity of an electrical substation; (3) the location on a heavily-trafficked street; and (4) the contamination of the site from a prior dry cleaning use; and

WHEREAS, as to the history of commercial use at the site, the applicant notes that the site was occupied by a commercial use for at least 50 years, until a fire damaged the building in approximately 2002; and

WHEREAS, as to the close proximity of an electrical substation, the applicant notes that the adjacent lot to the west is occupied by an electrical transfer yard, which is designed for truck access and contains large structures housing mechanical equipment; and

WHEREAS, the applicant notes that the other lot adjacent to the transfer yard on Union Turnpike is a large community facility, which occupies more than half of the subject block and that no residential use abuts the transfer yard on its Union Turnpike frontage, where trucks access the site; and

WHEREAS, the applicant represents that the use of the adjacent site on Union Turnpike is not compatible with a conforming development and compromises the marketability of the subject site for such a use, particularly when considered in the aggregate with the other unique site conditions; and

WHEREAS, as to the site's location on the corner of Union Turnpike and Chevy Chase Street, the applicant notes that Union Turnpike is a wide street with a width of 100 feet, which is heavily-trafficked; and

WHEREAS, the applicant asserts that the high amount of traffic at the location, which includes that for the many nearby commercial businesses, diminishes the marketability for a conforming and complying residential use; and

WHEREAS, specifically the applicant notes that the permitted conforming use of the site would be one or two single-family homes and that homes at that density are not compatible with the wide street and adjacent use and would thus not be marketable; and

WHEREAS, in support of this claim, the applicant provided testimony from a neighborhood real estate broker who stated that no new residential development has taken place on Union Turnpike between Cunningham Park and Utopia Parkway in recent years; and

WHEREAS, the applicant submitted evidence into the record, which reflects that the residential buildings with frontage on Union Turnpike were constructed between approximately 1920 and 1961; and

WHEREAS, the applicant noted that many of the residential buildings with frontage on Union Turnpike also have commercial use on the first floor; and

WHEREAS, further, the real estate consultant stated that another site within a residential zoning district nearby on Union Turnpike has been on the market for more than one year without any success; 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, as to the contamination of the site, the applicant represents that the site was operated as a dry cleaning

business for approximately 20 years and that there could be significant environmental remediation costs if the soil were disturbed to accommodate a conforming development; and

WHEREAS, the Board notes that the applicant did not submit any evidence to support a claim that there would be significant environmental remediation costs and does not accept this claim; and

WHEREAS, the applicant initially submitted a feasibility study which analyzed a conforming single-family home; and

WHEREAS, the study concluded that a single-family home would not yield a reasonable rate of return; and

WHEREAS, at hearing, the Board directed the applicant to analyze an additional as-of-right alternative of two single-family homes fronting on Chevy Chase Street, rather than Union Turnpike; and

WHEREAS, the applicant notes that the two homes in that configuration would have backyards abutting the electrical substation and would, similarly, result in a negative rate of return; and

WHEREAS, the applicant submitted testimony into the record from a real estate professional in support of the claim that such homes would not be marketable; and

WHEREAS, at the Board's request, the applicant modified the financial analysis to include comparables, which it found to be more relevant to the subject site; 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 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 occupied by an abundance of commercial uses; and

WHEREAS, the applicant notes that the site across Chevy Chase Street from the subject site is within a C1-2 (R2-4) zoning district, as are the sites diagonally across Union Turnpike to the east; and

WHEREAS, these sites are occupied by commercial uses; and

WHEREAS, in addition to commercial uses, as noted above, to the west of the site on Union Turnpike are the electrical transfer station and a large three-story synagogue; and

WHEREAS, the applicant submitted photographs of the streetscape along Union Turnpike, which reflect that there are several dozen commercial uses to the east and west of the site; and

WHEREAS, specifically, every block within the study (approximately six blocks in either direction) has at least one commercial or community facility use, including the blocks within the subject zoning district; and

WHEREAS, the photographs also reflect that there are very few buildings on this stretch of Union Turnpike occupied exclusively by residential use; and

WHEREAS, the applicant notes that the site had been

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historically used for commercial use for approximately 50 years until 2002; and

WHEREAS, further, the applicant notes that the size and location of the proposed building on the site are comparable to that of the most recent use as a drycleaner; and

WHEREAS, in response to the Community Board's concerns, the applicant agrees: (1) to limit the use of the building to Use Group 6 uses, other than eating and drinking establishments; (2) to provide a refrigerated refuse area if food is sold onsite; (3) to close operations by 11:00 p.m., daily; and (4) to prohibit garbage pick-up during evening hours; and

WHEREAS, after the hearing was closed, the Board received written testimony from additional community members who represent that they were not notified of the first public hearing and who oppose certain aspects of the application; the Board re-opened the record to allow the written testimony and the applicant's response to be entered; the Board also re-opened the hearing on April 1, 2008 to permit additional oral testimony; and

WHEREAS, specifically, the community members expressed concern that: (1) they had not received notification of the hearing; (2) the roof design was not compatible with nearby residential use; (3) lights, signs, or windows on the Chevy Chase Street frontage would negatively impact nearby adjacent use; (4) certain landscaping be maintained or planted; and (5) the terms of an agreement between the applicant and the new owner of the adjacent site on Chevy Chase Street inappropriately precludes the owner of the adjacent site from opposing the activity on the subject site; and

WHEREAS, the applicant responded to the concerns by agreeing to: (1) eliminate any signage on the Chevy Chase Street frontage; (2) eliminate the parapet above the building height of 18'-0" on the Chevy Chase Street frontage, except for a portion at the corner of the building; and (3) eliminate any lights from the Chevy Chase Street frontage; and

WHEREAS, additionally, the applicant noted that no construction is proposed along the west side of the site and that it proposes to maintain the existing trees and add landscaping in the western side yard; and

WHEREAS, the Board has determined that these changes address the primary newly-raised concerns and are appropriate; and

WHEREAS, the Board notes that it has not taken into consideration any agreement between the applicant and the new owner of the adjacent site, as such an agreement would not be relevant to the subject application; and

WHEREAS, additionally, the applicant agrees to provide screening and landscaping adjacent to residential uses and to direct any lighting away from nearby residences; and

WHEREAS, the Board notes that the parking is situated on the Union Turnpike frontage, furthest from the residential uses at the rear of the site; and

WHEREAS, at hearing, the applicant stated that the proposed use may include a delicatessen-type use, but would not include an eating and drinking establishment with full food preparation facilities; and

WHEREAS, the Board notes that the proposal respects the height and floor area limits of the subject zoning district and

provides for the required amount of parking based on the floor area; and

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

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

WHEREAS, the Board notes that the proposal provides for the reconstruction of the pre-existing building which was damaged by fire; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA098Q, dated June 11, 2007; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R1-2 zoning district, the reconstruction of a one-story commercial building (Use Group 6) which does not conform to district use regulations, contrary to ZR § 22-10; 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 June 11, 2007" – one (1) sheet, "Received February 15, 2008" – one (1) sheet "Received April 4, 2008" – two (2) sheets and "Received April 7, 2008" – one (1) sheet; and on further condition:

THAT the following are the bulk parameters of the

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proposed building: a floor area of 3,600 sq. ft. (0.32 FAR), one front yard of 47'-11", side yards of 38'-0" and 5'-0", a total height of 18'-0" (excluding the decorative parapet), and 12 parking spaces, as indicated on the BSA-approved plans;

THAT all signage shall comply with C1 zoning district parameters;

THAT the use of the site shall be limited to Use Group 6 retail and shall not include an eating and drinking establishment;

THAT all lighting shall be directed away from residences;

THAT no lighting or signage shall be placed on the eastern building wall, at the Chevy Chase Street frontage;

THAT a refrigerated refuse area shall be provided, if food is sold at the site;

THAT garbage pickup shall be limited to the hours between 7:00 a.m. and 7:00 p.m.;

THAT any operation of the site shall cease by 11:00 p.m., daily;

THAT landscaping and screening, including shrubbery and plantings, shall be provided and maintained as per the BSA-approved plans;

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, April 8, 2008.

221-07-BZ

CEQR #08-BSA-023M

APPLICANT – Kramer Levin Naftalis & Frankel, LLP c/o Elise Wagner, Esq., for Kipper Productions, Inc., owner.

SUBJECT – Application September 27, 2007 – Variance (§72-21) to permit a music rehearsal studio on the first and second floors in a two-story vacant building. The proposal is contrary to 32-10. C1-4/R7-2 zoning districts.

PREMISES AFFECTED – 165 Lenox Avenue, west side of Lenox Avenue between West 118th and West 119th Streets, Block 1903, Lot 32, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Sheila Pozon.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated September 17, 2007, acting on Department of Buildings Application No. 104889523, reads in pertinent part:

“Proposed music rehearsal studio (UG 9) at first and second floors is not permitted as-of-right in C1-4/R7-2 zoning district and is contrary to ZR 32-10”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within a C1-4 (R7-2) zoning district, a music rehearsal studio (Use Group 9) in an existing two-story and mezzanine commercial building, which is contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 12, 2008 after due notice of publication in the *City Record*, with continued hearing on March 11, 2008 and then to decision on April 8, 2008; 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 10, Manhattan, recommends approval of the application; and

WHEREAS, the site is located on the west side of Lenox Avenue (A/K/A Malcolm X Boulevard) between West 118th Street and West 119th Street; and

WHEREAS, the site has a lot area of approximately 3,253 sq. ft.; and

WHEREAS, site is occupied by a two-story and mezzanine building with 7,546 sq. ft. of floor area; and

WHEREAS, the site has a rectangular shape with approximately 35'-6" of frontage on Lenox Avenue extending to a depth of approximately 97'-0"; and

WHEREAS, the applicant states that the site was sold by the City of New York as a vacant lot in November 1990 to the previous owner subject to a condition that a temporary certificate of occupancy be secured within two years of its conveyance or ownership could be recaptured by the City; and

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WHEREAS, the applicant further states that the owner acquired the still vacant site from the previous owner in May 2001 with a deed condition requiring that a temporary certificate of occupancy be secured for a development within 18 months or ownership of the site would revert to the City; and

WHEREAS, the applicant represents that the City of New York through its Department of Citywide Administrative Services denied its request to waive the deed requirement and to grant additional time to obtain a temporary certificate of occupancy; and

WHEREAS, the applicant states that it therefore proceeded to build the subject building; and

WHEREAS, the existing two-story and mezzanine building has a total floor area of 7,546 sq. ft. (2.32 FAR); and

WHEREAS, the proposed uses for the building are (1) a music rehearsal studio (UG 9) on the first and second floors and (2) a not-for-profit organization (UG 4) on the mezzanine; and

WHEREAS, the music rehearsal studio will occupy 6,432 sq. ft. of floor area (1.98 FAR), and the community facility will occupy 1,114 sq. ft. of floor area (0.34 FAR); 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 poor soil conditions; and (2) the presence of a geological fault and stream running beneath the property; and

WHEREAS, as to the poor soil conditions, the applicant notes that the site's soil consists of loose fill material underlain by silty sand; and

WHEREAS, as to the geological fault that runs beneath the property, the applicant states that a geotechnical engineering study conducted on the site measured groundwater at a depth of 10.5 feet due to a stream running through a subsurface geological fault; and

WHEREAS, the applicant represents that the subject site is the only one in the vicinity with a stream underneath the entire property; and

WHEREAS, the applicant claims that because of the site's poor soil conditions, geological fault and stream, shallow footings could not be used; instead, a deep foundation system using piles was required; and

WHEREAS, the applicant states that drilled piles typically cost two to three times more than driven piles; and

WHEREAS, the applicant documented additional construction costs associated with the need for drilled piles; 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 analyzing an as of right commercial and community facility building and an as of right residential building; and

WHEREAS, the applicant concluded that both scenarios would result in a loss, due to the premium construction costs associated with the site's unique subsurface conditions; and

WHEREAS, specifically, the applicant noted that second floor commercial space is not marketable at this location and income from such use would thereby be limited; and

WHEREAS, at hearing the Board asked the applicant whether it was feasible to enlarge the subject building to include four additional stories of residential units; and

WHEREAS, the applicant further represents that the resulting residential rental income would be insufficient to offset the additional foundation costs or the cost of the residential enlargement; and

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

WHEREAS, the applicant represents that the proposed use 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 further represents that the immediate area is characterized by residential buildings with ground floor commercial uses; and

WHEREAS, the applicant states that several commercial districts which permit Use Group 9 uses as of right are located nearby, including one such district two blocks to the south of the subject site, and that such a use is consistent with the character of the area; and

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

WHEREAS, the Board agrees that the surrounding area is characterized by lower floor commercial uses, and finds that the introduction of the proposed Use Group 9 use will not impact nearby conforming uses; and

WHEREAS, the applicant represents that because the proposed use will not require physical alteration to the exterior of the subject building, it would not adversely affect the surrounding area, including the architectural resources of the Mount Morris Park Historic District located northeast of the of the subject building on the north side of 119th Street and on the east side of Lenox Avenue; and

WHEREAS, at hearing the Board asked how the applicant proposed to mitigate noise from the subject building; and

WHEREAS, in a submission to the Board, the applicant stated that the building is a sound-proof facility with double thickness walls that are internally lined with sound-abatement materials meeting professional standards and studio doors equipped with sound abating gaskets and seals; and

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

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

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WHEREAS, the Board observes that the proposed use as a Use Group 9 music rehearsal studio is limited in scope and compatible with nearby development; and

WHEREAS, the applicant states that the proposed building has an FAR of 2.32, significantly less than the FAR of 4.0 permitted for an as of right residential development, or the 6.5 FAR permitted for a complying community facility use; and

WHEREAS, the Board notes that the proposed use is the minimum variance necessary to compensate for the additional construction costs associated with the uniqueness of the site; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.42 (ak) 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. 08BSA023M, dated January 23, 2008; and

WHEREAS, the EAS documents show 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; 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, to permit, within a C1-4 (R7-2) zoning district, a music rehearsal studio (Use Group 9) in an existing two-story and mezzanine commercial building, which is contrary to ZR § 32-10, *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 27, 2007" – Six (6) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: two stories and a mezzanine, a total floor area of

7,546 sq. ft. (2.32 FAR), a Use Group 9 floor area of 6,432 sq. ft. (1.98 FAR), and a community facility floor area of 1,114 sq. ft. (0.34 FAR);

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

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

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

Adopted by the Board of Standards and Appeals, April 8, 2008.

10-08-BZ CEQR #08-BSA-043K

APPLICANT – Law Office of Fredrick A. Becker, for NYC Partnership Housing Development Fund Company, Inc., owner; TSI West 145th LLC, dba New York Sports Club, lessee.

SUBJECT – Application January 4, 2008 – Special Permit (§73-36) to allow the legalization of the existing Physical Culture Establishment on a portion of the cellar level and first floor in a nine-story mixed-use building. The proposal is contrary to section 32-10. C4-4D.

PREMISES AFFECTED – 66-68 Bradhurst Avenue, easterly side of Bradhurst Avenue, easterly of West 145th Street, Block 2045, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Fredrick Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated December 5, 2007, acting on Department of Buildings Application No. 104930817, reads in pertinent part:

“Proposed Physical Culture Establishment is contrary to Zoning Resolution Section 32-10;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-4D zoning district, the legalization of a physical culture establishment (PCE) on portions of the first floor and cellar level of a nine-story mixed-use residential/commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 26, 2008, after due notice by publication in *The City Record*, with a continued hearing on March 18, 2008, and then to decision on April 8, 2008; and

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

WHEREAS, Community Board 11, Manhattan, did not provide a recommendation on the application; and

WHEREAS, the subject site is located on the northeast corner of Bradhurst Avenue and West 145th Street; and

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

WHEREAS, the PCE occupies approximately 15,903 sq. ft. of floor space on the first floor and cellar level; and

WHEREAS, the PCE is operated as New York Sports Club; and

WHEREAS, the Board notes that the PCE has operated at the site since approximately December 1, 2007; accordingly, the term will be reduced for the amount of time between December 1, 2007 and the date of this grant; and

WHEREAS, the applicant represents that the PCE provides facilities for cardiovascular exercise and weight-training; and

WHEREAS, the hours of operation are: Monday through Thursday 6:00 a.m. to 11:00 p.m.; Friday 6:00 a.m. to 9:00 p.m.; and Saturday and Sunday 9:00 a.m. to 7:00 p.m.; and

WHEREAS, at hearing, the Board asked the applicant to identify where the residential units in the building are in relation to the PCE use and to describe all sound attenuation measures; and

WHEREAS, in response, the applicant stated that the majority of the PCE use is either adjacent to commercial use or under the second floor open roof deck, but that there are sound attenuation measures in place below any adjacent residential use; and

WHEREAS, additionally, as to sound attenuation, the applicant submitted revised plans, which describe the measures that are in place to buffer any noise from the PCE to adjacent uses; and

WHEREAS, the applicant represents that the sound attenuation measures including the following: a spring hung ceiling, six inches of batt insulation, and two layers of sheetrock, which were undertaken in accordance with recommendations from acoustical consultants; and

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 08BSA043M, dated January 3, 2008; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-4D zoning district, the legalization of a physical culture establishment on portions of the first floor and cellar level of a nine-story mixed-use residential/commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received March 31, 2008"-(2) sheets; and *on further condition*:

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

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

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

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

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

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

THAT all sound attenuation measures shall be installed and maintained as per the Board-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, April 8, 2008.

16-08-BZ

APPLICANT – Eric Palatnik, P.C., for Isaiah Florence, owner.

SUBJECT – Application January 15, 2008 – Special Permit (§73-622) for the enlargement of an existing single family dwelling. This application seeks to vary open space and floor area (§23-141(a)); side yards (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 2614 Avenue L, between East 26th and East 27th Streets, Block 7644, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #14BK

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 Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated March 18, 2008, acting on Department of Buildings Application No. 310005767, reads in pertinent part:

- “1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio (FAR) exceeds the permitted 50%.
2. Proposed plans are contrary to ZR 23-141(a) in that the proposed open space ratio (OSR) is less than the required 150%.
3. Plans are contrary to ZR 23-461(a) in that the existing total side yards are less than the required 13’-0”.
4. Plans are contrary to ZR 23-461(a) in that the existing minimum side yard is less than the required minimum 5’-0”.
5. Plans are contrary to ZR 23-47 in that the back yard is less than the required minimum 30’-0”,” and

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

141(a), 23-461(a), and 23-47; and

WHEREAS, a public hearing was held on this application on March 4, 2008, after due notice by publication in *The City Record*, with a continued hearing on April 1, 2008, and then to decision on April 8, 2008; and

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

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

WHEREAS, the subject site is located on the south side of Avenue L, between East 26th Street and East 27th Street; 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 approximately 3,173 sq. ft. (0.80 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 3,173 sq. ft. (0.80 FAR), to 3,914 sq. ft. (0.98 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide an open space ratio of 60 percent (150 percent is the minimum required); and

WHEREAS, the proposed enlargement will maintain a non-complying side yard of 4’-6” (a minimum width of 5’-0” is required) and a complying side yard of 8’-5” (side yards with a minimum total width of 13’-0” are required); and

WHEREAS, the proposed enlargement will maintain the rear yard with a depth of 24’-3” (a minimum rear yard of 30’-0” is required); and

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

WHEREAS, at hearing, the Board directed the applicant to confirm whether a three-story bay window would increase the degree of non-compliance of the side yard; and

WHEREAS, in response, the applicant revised the drawings to reflect the removal of the noted bay window; 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

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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 R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, rear and side yards, contrary to ZR §§ 23-141(a), 23-461(a), 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 March 19, 2008"-(12) sheets; and *on further condition*:

THAT the floor area in the attic shall be limited to 720.5 sq. ft.;

THAT there shall be no habitable room in the cellar;

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

THAT the following shall be the bulk parameters of the building: a total floor area of 3,914 sq. ft. (0.98 FAR), an minimum open space ratio of 60 percent, side yards with minimum widths of 4'-6" and 8'-5", and a rear yard with a minimum depth of 24'-3", as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, April 8, 2008.

200-07-BZ

APPLICANT – Rampulla Associates Architects, for Ortho Health Care Realty, LLC, owner.

SUBJECT – Application August 10, 2007 – Variance (§72-21) for new horizontal and vertical addition to existing commercial building for medical offices (UG 4). Proposal is contrary to §22-14. R3-1 district within Special South Richmond District and Special Growth Management District.

PREMISES AFFECTED – 3333 Hylan Boulevard, north west side of Hylan Boulevard, east of Spratt Avenue, Block 4987, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Phil Rampulla and James Heineuran.

For Opposition: James G. Shawgig, Rosemarie Trotta, Carole Timko, Linda Nigio, William Koman, Edwin Converg, Nevgul Laverie and John Lafemina.

ACTION OF THE BOARD – Laid over to May 20, 2008, at 1:30 P.M., for continued hearing.

238-07-BZ

APPLICANT – Law Offices of Howard Goldman, for OCA Long Island City, LLC, c/o O'Connor Capital Partners, owners; OCA Long Island City, LLC, lessees.

SUBJECT – Application October 23, 2007 – Variance (§ 72-21) to allow a 13-story residential building (UG 2) contrary to regulations for FAR (§ 117-21 & § 23-145), lot coverage (§ 117-21 & § 23-145), minimum distance between windows (§ 117-21 & § 23-711(b)) and height and setback (§ 117-21, § 23-633 & § 23-663). Student dormitory (UG 3) and faculty housing (UG 2) for CUNY Graduate Center is also proposed contrary to use regulations (§ 42-00). M1-4/R6A (LIC) and M1-4 districts.

PREMISES AFFECTED – 5-11 47th Avenue, easterly half of Block 28 on the east side of Fifth Street between 46th Road and 47th Avenue, 135-180' west of Vernon Boulevard, Block 28, Lots 13, 15, 17, 18, 21 and 38, Borough of Queens.

COMMUNITY BOARD # 2Q

APPEARANCES –

For Applicant: Howard Goldman, William P. Kelly, Jay Vangora, Arnold F. Flemming and Thomas Paino.

For Opposition: ?????

ACTION OF THE BOARD – Laid over to May 20, 2008, at 1:30 P.M., for continued hearing.

242-07-BZ

APPLICANT – Sheldon Lobel, P.C., for 1760 Gleason Properties, LLC, owner.

SUBJECT – Application October 26, 2007 – Variance (§72-21) to construct a two story, two family detached residence with an accessory one car garage and one accessory open parking space on a vacant corner lot which encroaches into a required front yard (23-45) in an R5 zoning district.

PREMISES AFFECTED – 1760 Gleason Avenue,

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Commonwealth Avenue and Saint Lawrence Avenue, Block 3752, Lot 41, Borough of Bronx.

COMMUNITY BOARD # 9BX

APPEARANCES –

For Applicant: Elizabeth Safian.

For Opposition: James C. Jones, Esq., James C. Jones.

ACTION OF THE BOARD – Laid over to May 13, 2008, at 1:30 P.M., for continued hearing.

281-07-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Chaya Falah and Victor Falah, owners.

SUBJECT – Application December 12, 2007 – Special Permit (§73-622) for the enlargement of an existing single family dwelling. This application seeks to vary floor area (§23-141); side yard (§23-461) and rear yard (§23-47) in an R2X (OP) zoning district.

PREMISES AFFECTED – 1960 East 4th Street, west side of East 4th Street, between Kings Highway and Avenue S, Block 6681, Lot 263, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to May 6, 2008, at 1:30 P.M., for continued hearing.

13-08-BZ

APPLICANT – Bryan Cave LLP/Robert Davis, for Little Red School House, Inc., owner.

SUBJECT – Application January 8, 2008 – Variance (§72-21) to permit an addition at the rear of the existing high school and adjacent buildings to meet the school's programmatic needs. The proposal is contrary to §§ 24-11 (lot coverage) and 24-36 (rear yard). R6/M1-6 districts.

PREMISES AFFECTED – 34-42 Charlton Street (a/k/a 34 Charlton, 40 Charlton, 40-42 Charlton Street) bounded by Varick and Charlton Streets, Avenue of the Americas and Vandam Street, Block 506, Lots 11 & 12, Borough of Manhattan.

COMMUNITY BOARD # 2M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 6, 2008, at 1:30 P.M., for continued hearing.

14-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Elie Zeitoune, owner.

SUBJECT – Application January 8, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary side yards (§23-46) and rear yard (§23-47) in an R5 zoning district.

PREMISES AFFECTED – 1958 East 13th Street, west side of East 13th Street, between Avenue S and Avenue T, Block 7291, Lot 108, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Elizabeth Safian.

ACTION OF THE BOARD – Laid over to May 13, 2008, at 1:30 P.M., for continued hearing.

36-08-BZ

APPLICANT – Lewis Garfinkel, R.A., for Antoninette Mizrachi, owner.

SUBJECT – Application February 21, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (23-141(a)); side yards (23-461) and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1177 East 23rd Street, east side of East 23rd Street, 130' north of Avenue L, Block 7623, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lewis Garfinkel.

ACTION OF THE BOARD – Laid over to May 13, 2008, at 1:30 P.M., for continued hearing.

44-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Peggy Hoffman and Abraham Joseph Hoffman, owners.

SUBJECT – Application February 28, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (23-141(a)), and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1015 East 23rd Street, East 23rd Street between Avenues J and K, Block 7605, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to May 13, 2008, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: 5:15 P.M.