
BULLETIN

OF THE
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AND APPEALS

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July 18, 2002

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DOCKET

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197-02-BZ B.BK. 2825 Nostrand Avenue, east side, 129.14' south of Kings Highway, Block 7692, Lot 38, Borough of Brooklyn. Applic. #300627908. The legalization of an existing physical culture establishment, in a two story commercial building, located in a C2-2 within an R3-2 zoning district, requires a special permit from the Board as per Z.R. §32-31.

COMMUNITY BOARD #18BK

198-02-BZ B.M. 55 Wall Street, south side, between Hanover and William Streets, Block 27, Lot 1, Borough of Manhattan. Applic. #103161739. Application to permit an existing physical culture establishment, Use Group 9, accessory to an existing hotel, to be open to the public, requires a special permit from the Board as per Z.R. §32-31.

COMMUNITY BOARD #1M

199-02-BZ B.M. 210/220 East 19th Street, bounded by Second and Third Avenues, Block 899, Lots 46 through 49 and 51. Borough of Manhattan. Applic. #103154532. Proposed construction of a nine story residence for the elderly, Use Group 2, with 71 units, in an R7-2 zoning district, which does not comply with the zoning requirements for floor area ratio, height, setback and side yard regulations, is contrary to Z.R. §23-144, §23-633 and §23-462.

COMMUNITY BOARD #6M

200-02-BZ B. M. 2326 First Avenue, northeast corner of East 119th Street, Block 1807, Lots 1 and 5, Borough of Manhattan. N.B. #103080336. Proposed construction of a new automotive service station with an accessory convenience store, Use Group 16, located in a C2-2 within an R7-2 zoning district, is contrary to a previous variance granted by the Board under Cal. No. 493-41-BZ and Z.R. §22-00.

COMMUNITY BOARD #11M

201-02-BZ B.S.I. 6778 Hylan Boulevard, southeast corner of Page Avenue, Block 7734, Lots 13 and 20, Borough of Staten Island. N.B. #500496643. Proposed construction of a new automotive service station with an accessory convenience store, Use Group 16B, that is located in a C1-1 zone overlay within an R3-1 zoning district, is contrary to a previous variance granted by the Board under Cal. No.855-25-BZ and Z.R. §32-25.

COMMUNITY BOARD #3SI

202-02-BZ B.Q. 133-20 Rockaway Boulevard, between 133rd and 134th Streets, Block 11757, Lot 55, Borough of Queens. N.B. #401395414. Proposed construction of an accessory drive-thru facility in conjunction with an eating and drinking establishment, Use Group 6, requires a special permit from the Board as per Z.R. §32-10.

COMMUNITY BOARD #12BK

203-02-BZ B.Q. 110-18 Northern Boulevard, between 110th and 111th Streets, Block 1725, Lots 1, 3, 4, 7, 8, 11, 12 and 13, (Tentative Lot 1), Borough of Queens. N.B. #401444772. Proposed construction of a new automotive service station with an accessory convenience store, Use Group 16, that is located in a C1-2 within an R5 zoning district, is contrary to §32-31.

COMMUNITY BOARD #3Q

204-02-BZ B.Q. 144-31 Farmers Boulevard, between North Conduit Avenue and 144th Road, Block 13090, Lot 4, Borough of Queens. Applic. #401398233. Proposed construction of a new automotive service station with an accessory convenience store, Use Group 16, that is located in an R3-2 zoning district, is contrary to a previous variance granted by the Board under Cal. No.703-56-BZ and Z.R. §22-00.

COMMUNITY BOARD #13Q

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

AUGUST 13, 2002, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, August 13, 2002, at 10 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

280-01-BZ

APPLICANT - Howard A. Zipser, Esq. of Stadtmauer Bailkin, LLP and Howard Hornstein, Esq., of Fischbein Badillo Wagner Harding, for Metropolitan TransS & M Enterprises, LLC, owner.

SUBJECT - Application July 8, 2002 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 663/673 Second Avenue, 241/249 East 36th Street, west side of Second Avenue between East 36th and East 37th Streets, Block 917, Lots 21, 24/30, 32 & 34, Borough of Manhattan.

COMMUNITY BOARD # 6M

AUGUST 13, 2002, 11:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, August 13, 2002, at 11 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

APPEALS CALENDAR

154-02-A & 155-02-A

APPLICANT - Joseph B. Raia, R.A., for Michael Simioni, owner.

SUBJECT - Application May 14, 2002 - Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 26 Pitney Avenue, south side, 213.10' west of Bloomingdale Road, Block 7356, Lot 445, Borough of Staten Island.

28 Pitney Avenue, south side, 213.10' west of Bloomingdale Road, Block 7356, Lot 444, Borough of Staten Island.

COMMUNITY BOARD #3

159-02-A

APPLICANT - Charles L. Walker, for Charles Ferrando.

OWNER OF PREMISES: Sucuri Palevic.

SUBJECT - Application May 16, 2002 - An appeal challenging the Department of Buildings' determination dated April 18, 2002, in which the Department refused to revoke Certificate of Occupancy No. 500442675 for subject premises, on the grounds that said building does not violate the Zoning Resolution and the NYC Building Code requirements.

PREMISES AFFECTED - 33 White Plains Avenue, between Shaughnessy Lane and Chestnut Avenue, Block 2967, Lot 73, Borough of Staten Island.

COMMUNITY BOARD #1

177-02-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative Inc., owner; Marie Lynch, lessee.

SUBJECT - Application May 23, 2002 - Proposed first floor enlargement, and the addition of a partial second story to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 13 Fulton Walk, east side, 146.99' south of Oceanside Avenue, Block 16350, Part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

184-02-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative Inc., owner; Frank E. Farrell, lessee.

SUBJECT - Application June 3, 2002 - Proposed enlargement of the first floor, construct a new second floor addition and install a new septic system in connection with a home which does not front on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 24 Gotham Walk, west side, 135' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens

COMMUNITY BOARD #14Q

CALENDAR

AUGUST 13, 2002, 2:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, August 13, 2002, at 2 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

39-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Shaturrun Estates, LLC, owner.

SUBJECT- Application January 29, 2002 - under Z.R. §72-21, to permit the proposed continuation of the use of the premises as a warehouse (said use was permitted under BSA Cal. No. 761-80-BZ), and for a small portion to be utilized as a storefront retail use, located in a C1-2 and R3-2 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 142-66/82 Rockaway Boulevard, between Bascom Avenue and 143rd Street, Block 12059, Lot 34, Borough of Queens.

COMMUNITY BOARD #12Q

49-02-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Spartacus Realty, Inc., owner.

SUBJECT- Application February 7, 2002 - under Z.R. §72-21, to permit the proposed construction of a one-family dwelling, Use Group 1, located in an R2 zoning district, which does not provide the required front yard, sky exposure clearance, width or lot area, and exceeds the permitted floor area, is contrary to Z.R. §23-30, §23-141 and §23-45.

PREMISES AFFECTED - 189-19 Pineville Lane, northwest corner of Lucas Street, Block 12720, Lot 119, Borough of Queens.

COMMUNITY BOARD #12Q

79-02-BZ

APPLICANT- Law Office of Howard Goldman, PLLC, for Big Sue, LLC, owner.

SUBJECT- Application March 20, 2002 - under Z.R. §72-21, to permit the proposed conversion of a four story industrial building located in an M1-1 zoning district, into a residential building with six dwelling units, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 1024 Dean Street, between Franklin and Classon Avenues, Block 1142, Part of Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #8BK

88-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Michael Provino, owner; BP Amoco, plc, lessee.

SUBJECT- Application March 27, 2002 - under Z.R. §73-21, to permit the proposed construction of a new automotive service station with an accessory convenience store, Use Group 16, located in a C2-2 within an R5 zoning district, which requires a special permit as per Z.R. §32-31.

PREMISES AFFECTED - 3641 Boston Road, between East 223rd and East 224th Streets, Block 4889, Lot 2, Borough of The Bronx.

COMMUNITY BOARD #12BX

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JULY 9, 2002
10:00 A.M.**

Present: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, June 4, 2002, were approved as printed in the Bulletin of June 13, 2002, Volume 87, No. 23-24.

SPECIAL ORDER CALENDAR

245-32-BZ

APPLICANT- Sion Hourizadez, for 123-05 Realty Corp., owner.

SUBJECT - Application January 11, 2001 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 123-05 101st Avenue, Northeast corner of 101st Avenue and 123rd Street, Block 9464, Lot 30, Borough of Queens.

COMMUNITY BOARD # 9Q

APPEARANCES -

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4

Negative:.....0

Abstain: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure, a re-opening, and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on August 7, 2001, after due notice by publication in *The City Record*, postponed to September 25, 2001, October 30, 2001, and December 4, 2002, and then laid over for continued hearing to February 5, 2002, March 19, 2002, April 9, 2002, May 14, 2002 and then to July 9, 2002 for decision; and

WHEREAS, the applicant seeks to amend the

resolution to legalize the addition of a second floor office and to permit the change of use on the first floor from gasoline station to automobile repair.

Resolved, that the Board of Standards and Appeals *reopens and amends* the resolution adopted on September 16, 1932 so that as amended this portion of the resolution shall read:

“to permit the legalization of the addition of a second floor office and to permit the change of use on the first floor from gas station to automobile repair; on condition;

THAT the premises shall be maintained in substantial compliance with Board approved plans marked “Received January 11, 2001”-(5) sheets and “May 28, 2002”-(3) sheets; and on further condition:

THAT the term of this variance shall be limited to ten (10) years from the date of this resolution;

THAT the hours of operation shall be limited to Monday-Saturday, 9:00 A.M. - 6:00 P.M.;

THAT there shall be no outdoor lifts;

THAT there shall be no outdoor repairs;

THAT the premises shall remain graffiti free;

THAT there shall be no portable freestanding signage;

THAT all barbed wire shall not hang over the fence facing the public sidewalk;

THAT the total signage shall not exceed 150 square feet and the total illuminated signage shall not exceed 50 square feet;

THAT landscaping shall be maintained in accordance with BSA-approved plans;

THAT there shall be no parking on the sidewalks;

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

THAT a new Certificate of Occupancy shall be obtained within one year from the date of this amended resolution;

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) and/or configuration(s) not related to the relief granted." (DOB. No. 401040850)

Adopted by the Board of Standards and Appeals, July 9, 2002.

603-49-BZ

APPLICANT - Alfonso Duarte, P.E., for JAJ Realty LLC,

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owner.

SUBJECT - Application December 18, 2001 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 34-14 31st Street, west side 90.11' south of 34th Street, Block 607, Lot 34, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Alfonse Duarte.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

Abstain: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 14, 2001, acting on ALT.1 Application No. 401203130, reads:

"1. Proposed Office U.G. 6B part of first floor and 2nd floors is contrary to Section 22-00 Z.R. and BSA Cal. #603-49-BZ. The Building is located in R5 zone.

2. Proposed commercial office in existing frame (IID) structure is contrary to 27-297 and Table 4-1 A.C."; and

WHEREAS, the applicant has requested an amendment to the resolution to legalize the conversion of the one-family dwelling unit existing on a portion of the first floor and to convert the entire second floor to offices (Use Group 6B); and

WHEREAS, a public hearing was held on this application on May 7, 2002 after due notice by publication in *The City Record* and laid over to June 11, 2002 and then to July 9, 2002 for decision; and

WHEREAS, the Board notes that this case was heard with a companion Appeals case filed under Calendar Number 392-01-A, objection #2; and

WHEREAS, in 1950, the Board approved the use of a one-story building housing an automotive repair establishment with an office and a parts department on portion of the first floor, for use in conjunction with commercial uses with a residential use in the remaining part of the first floor and on the second floor; and

WHEREAS, the record indicates that the office use has existed since 1985 without causing adverse impacts to the surrounding community; and

WHEREAS, therefore, the Board finds that the proposed changes will not result in any significant changes to the prior approval.

Resolved, that the Board of Standards and Appeals

reopens and amends the resolution pursuant to §11-413 of the *Zoning Resolution*, said resolution having been adopted on June 13, 1950, so that as amended this portion of the resolution shall read:

"To legalize the conversion of the one-family dwelling unit existing on a portion of the first floor and convert the entire second floor to offices (Use Group 6B); *on condition* that the premises shall be maintained in substantial compliance with the proposed conditions plans submitted with the application marked "Received, December 18, 2001"- (3) sheets and "March 15, 2002"- (1) sheet;

THAT the premises shall remain graffiti free;

THAT there shall be no parking of cars on the sidewalk;

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

THAT a new Certificate of Occupancy shall be obtained within one year from the date of this amended resolution;

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) and/or configuration(s) not related to the relief granted." (DOB. No. 103086839)

Adopted by the Board of Standards and Appeals, July 9, 2002.

392-01-A

APPLICANT- Alfonse Duarte P.E., for J & J Realty, LLC, owner.

SUBJECT - Application December 18, 2001 - The legalization of the conversion of the residential use to commercial use (office), in an existing frame (IID) structure, is contrary to § 27-297 and Table 4-1 of the NYC Administrative Code.

PREMISES AFFECTED - 34-14 31st Street, west side, 90.11' south of 34th Avenue, Block 607, Lot 34, Borough of Queens.

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 14, 2001, acting on ALT.1 Application No. 401203130, reads:

"1. Proposed Office U.G. 6B part of first floor and 2nd floors is contrary to Section 22-00 Z.R. and BSA Cal. #603-49-BZ. The Building is located in R5 zone.

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2. Proposed commercial office in existing frame (IID) structure is contrary to 27-297 and Table 4-1 A.C."; and

WHEREAS, the Board notes that this case was heard with a companion Special Order Calendar case filed under Calendar Number 603-49-BZ, addressing objection #1; and

WHEREAS, this appeal challenges the Department of Buildings determination disapproving an alteration and change of occupancy from residential to commercial of an existing wood frame building located within a Fire District; and

WHEREAS, the Department of Buildings disapproved the application because the pre-1968 Administrative Code classified the subject premises as a residential Class 4 wood frame structure and the appellant's proposed use is contrary to Sections 27-297 and Tables 4-1 of the Building Code; and

WHEREAS, table 4-1 (Area and Height Limitations for Unsprinklered Buildings and Spaces) prohibit Group E (Business) occupancies in Class IID and IIE combustible construction structures if such structure is located within a Fire District; and

WHEREAS, the subject premises is a wood frame building classified within combustible construction class IID or IIE; and

WHEREAS, the record indicates, that the applicant will provide portable fire extinguishers and sand buckets placed throughout the premises; and

WHEREAS, the applicant represents that the usual causes of fires in frame buildings have been eliminated due to the conversion from residential to commercial use, i.e. careless activity associated with residential uses and that the site has been operating pursuant to yearly permits under the purview of the Fire Department; and

WHEREAS, after consulting with representatives from the Fire Department, the Board finds that appellant's fire safety measure are adequate to warrant approval of this application; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions. Resolved, that the decision of the Queens Borough Commissioner, December 14, 2001, acting on ALT.1 Application No. 401203130, objection #2, is reversed the appeal is granted, limited to the decision noted, on condition that the construction shall substantially conform to drawing filed with the application marked `Received, December 18, 2001' -(3) sheets and `March 15, 2002' - (1) sheet; and

THAT a new Certificate of Occupancy shall be obtained within one year from the date of this amended resolution;

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) and/or configuration(s) not related to the relief granted." (DOB. No. 103086839)

Adopted by the Board of Standards and Appeals, July 9, 2002.

1263-80-BZ

APPLICANT - Henry A. Alpert, for Spartan Petroleum Corp., owner; BP Products North America Inc., lessee.

SUBJECT - Application March 5, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 12, 2001.

PREMISES AFFECTED - 436 Tenth Avenue aka 432/438 10th Avenue and 461/469 West 34th Street, northeast corner of Tenth Avenue and West 34th Street, Block 732, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, and term of the variance extended.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4

Negative:.....0

Abstain: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the applicant has requested a reopening and an extension of the term of the variance which expired May 12, 2001; and

WHEREAS, a public hearing was held on this application on May 14, 2002, after due notice by publication in *The City Record*, laid over to July 9, 2002 for decision; and

WHEREAS, the applicant seeks to extend the term of the variance for an additional ten (10) years.

Resolved, that the Board of Standards and Appeals hereby waives the Rules of Practice and Procedure and *reopens and extends* the term of the variance pursuant to Z.R. §§73-211 and 73-212, said resolution having been adopted May 12, 1981, so that as amended this portion of

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the resolution shall read:

“to permit the extension of the term of the variance for an automotive service station for ten (10) years from May 12, 2001 expiring May 12, 2011, *on condition*

THAT the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked “Received March 5, 2002”-(3) sheets and “June 18, 2002”-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*

THAT the hours of operation for the automobile vacuums shall be from 9:00 A.M. to 9:00 P.M., Monday through Sunday;

THAT there shall be no parking of automobiles on the sidewalk;

THAT all landscaping shall be maintained in accordance with BSA-approved plans;

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

THAT a new Certificate of Occupancy shall be obtained within one year from the date of this amended resolution;

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) and/or configuration(s) not related to the relief granted.” DOB. No. 103086839)

Adopted by the Board of Standards and Appeals, July 9, 2002.

150-95-BZ

APPLICANT - Paul Selver, Esq., for St. Bernard’s School, Inc., owner.

SUBJECT - Application November 19, 2001 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 4-10 East 98th Street, aka south side of 98th Street, 125' east, Block 1603, Lot 63, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES -

For Applicant: Paul Selver.

For Administration: Capt. Michael Maloney and John

Scrofani, Fire Department.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele5

Negative:0

Adopted by the Board of Standards and Appeals, July 9, 2002.

1069-27-BZ, Vol. III

APPLICANT - Sheldon Lobel, P.C., for Frank Mormando, owner.

SUBJECT - Application July 12, 2001 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 6, 2001 and for an amendment to the resolution.

PREMISES AFFECTED - 6702/6724 New Utrecht Avenue, irregular-shaped triangular block bounded by New Utrecht Avenue, 15th Avenue and 68th Street, Block 5565, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

For Applicant: Lyra Altman and Frank Mormando.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:0

ACTION OF THE BOARD - Laid over to August 6, 2002, at 10 A.M., for decision, hearing closed.

74-49-BZ

APPLICANT - Sheldon Lobel, P.C., for 515 Seventh Associates, L.P., owner.

SUBJECT - Application November 8, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction and to obtain a certificate of occupancy which expired April 4, 2001.

PREMISES AFFECTED - 515 7th Avenue and 144-158 West 38th Street, Block 813, Lot 64, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Laid over to August 6, 2002, at 10 A.M., for continued hearing.

674-52-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Steven Ibrahim,

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owner.

SUBJECT - Application August 18, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired December 13, 2000.

PREMISES AFFECTED - 21-04 21st Avenue, southeast corner of 21st Street, Block 880, Lot 46, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Carl A. Sulfaro.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:0

ACTION OF THE BOARD - Laid over to August 6, 2002, at 10 A.M., for decision, hearing closed.

889-55-BZ

APPLICANT - New York City Board of Standards and Appeals.

SUBJECT - For possible rescindment of the resolution.

PREMISES AFFECTED - 69-15 164th Street, Queens.

COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:0

ACTION OF THE BOARD - Laid over to August 6, 2002, at 10 A.M., for decision, hearing closed.

62-83-BZ

APPLICANT - Sheldon Lobel, P.C., for Shaya B. Pacific LLC, owner.

SUBJECT - Application October 22, 2001 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 696 Pacific Street, 529/39 Dean Street and 549/59 Dean Street, Block 1128, Lots 16, 18, 37, 65, 68, 70, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES -

For Applicant: Janice Cahalane and Paul Sheridan

For Opposition: Roger Mendis, Elizabeth Martin and other.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to September 24, 2002, at 10 A.M., for continued hearing.

32-91-BZ

APPLICANT - Walter T. Gorman for Fulvan Realty Corp., owner; Fulton Auto Repair Inc., lessee.

SUBJECT - Application December 28, 2001 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 838/846 Fulton Street, a/k/a 489/93 Vanderbilt Avenue, Block 2010, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:0

ACTION OF THE BOARD - Laid over to July 23, 2002, at 10 A.M., for decision, hearing closed.

173-94-BZ

APPLICANT - New York City Board of Standards and Appeals.

SUBJECT - For possible rescindment of the resolution.

PREMISES AFFECTED - 165-10 144th Road, southeast corner of Rockaway Boulevard, Block 13271, Lot 17, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to September 24, 2002, at 10 A.M., for continued hearing.

180-95-BZ

APPLICANT - Jay Segal, Greenberg Traurig, LLP, for Brewran West Associates, LP, owner.

SUBJECT - Application August 10, 2001 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 256 West Street/416-424 Washington Street, Block 218, Lots 28, 23, 20, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Deirdre Carson.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:0

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ACTION OF THE BOARD - Laid over to July 23, 2002, at 10 A.M., for decision, hearing closed.

51-99-BZ

APPLICANT - Ira Zicherman, for Ira Zicherman, owner.
SUBJECT - Application October 15, 2001 - reopening for an extension of time to complete construction which expired September 14, 2001.

PREMISES AFFECTED - 1192 East 22nd Street, between Avenue K and Avenue L, Block 7621, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:0

ACTION OF THE BOARD - Laid over to July 23, 2002, at 10 A.M., for decision, hearing closed.

54-02-A & 55-02-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, owner; Charleston Development Corp., owner.

SUBJECT - Application February 11, 2002 - Proposed construction of a two family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 100 Gary Street, south side, 150.7' east of Kenilworth Avenue, Block 5720, Lot 99, Borough of Staten Island.

106 Gary Street, south side, 100.0' east of Kenilworth Avenue, Block 5720, Lot 102, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant: Adam Rothkrug.

For Opposition: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to August 13, 2002, at 10 A.M., for continued hearing.

141-02-A

APPLICANT - The Agusta Group for Raymond & Katherine Koon, owner.

SUBJECT - Application May 1, 2002 - Proposed construction of a two-story, one family dwelling, located partially within the bed of a mapped street, which is

contrary to Section 35, Article 3 of the General City Law.
PREMISES AFFECTED - 46-17 Overbrook Street, west side, between Alameda and Thebes Avenues, Block 8204, Lot 14, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Sal Forman.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to September 24, 2002, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 11:20 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, JULY 9, 2002
2:00 P.M.**

Present: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.

ZONING CALENDAR

217-00-BZ

CEQR # 01-BSA-027M

APPLICANT - Anthony M. Salvati/Mario Pesa, for Double B Realty c/o Lab Plumbing, owner.

SUBJECT - Application September 13, 2000 - under Z.R. §72-21 to permit the proposed construction of four additional stories to the rear of a two story residential structure, located in an R8 zoning district, (Special Clinton District), which exceeds the allowable F.A.R. and is contrary to Z.R. §96-101.

PREMISES AFFECTED - 530 West 50th Street, south side, 375' west of 10th Avenue, Block 1078, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #4M

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APPEARANCES -

For Applicant: Peter Hirshman.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative:.....0

Negative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4

Abstain: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated September 12, 2000, acting on Application No. 120604040, reads;

“1. The proposed enlargement in an R8 zoning district in special Clinton exceeds the allowable floor area as per Section 96-101 Z.R.”; and

WHEREAS, a public hearing was held on this application on October 18, 2001, after due notice by publication in *The City Record* and laid over to December 11, 2001, January 29, 2002, March 26, 2002, May 7, 2002 and then to July 9, 2002 for decision; and

WHEREAS, the Board has denied the applicant’s request to withdraw the application; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice Chair Satish Babbar R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R8 zoning district, within the Special Clinton District, the proposed construction of four additional stories to the rear of a two-story residential structure exceeding the allowable floor area ratio contrary to Z.R. §96-101; and

WHEREAS, the subject lot is located on West 50th Street between Tenth and Eleventh Avenue on a rectangular shaped parcel containing 2,500 square feet of lot area with 25’ of frontage on West 50th and a depth of 100’ housing two buildings, a five-story front building and a two-story rear building; and

WHEREAS, the instant proposal seeks to raise the story-height of the rear building to create new housing; and

WHEREAS, the applicant represents that the site is unique because the “history of development” of the site indicates that the lot is developed with a pre-existing non-conforming commercial office use and residential structure; and

WHEREAS, the applicant contends that his lot is burdened with obsolete, inferior and sub-standard existing apartment layouts yielding apartments with tiny bedrooms without windows and a shared bathroom; and

WHEREAS, the record indicates that the subject lot is rectangular and the applicant has failed to demonstrate the existence of inherent physical conditions that are unique to

the subject lot; and

WHEREAS, the Board has determined that the building’s design inefficiency does not create a unique physical condition leading to a hardship in conforming with existing zoning; and

WHEREAS, the applicant has failed to demonstrate that the design of the building cannot be reconfigured to a conforming development that would yield a reasonable return; and

WHEREAS, based on the subject lot’s regular (rectangular) shape, the vast number of mixed uses that could occupy the site and the applicant’s failure to document substantial marketing efforts to secure additional tenants, the Board finds that the applicant has failed to meet the requirements of Z.R. §72-21(a); and

WHEREAS, the record indicates that even with only a partial occupancy of the subject building, the owner may earn a reasonable return; and

WHEREAS, despite numerous requests from the Board, the applicant has failed to document substantial efforts to market the vacant portions of the building to a conforming tenant; and

WHEREAS, therefore, the Board finds that the applicant has failed to meet the requirements of Z.R. §72-21(b); and

WHEREAS, since the application fails to meet the requirements of Z.R. §§72-21 (a), (b) it must be denied.

Resolved, that the decision of the Borough Commissioner dated September 12, 2000, acting on Application No. 120604040, must be sustained and the application denied.

Adopted by the Board of Standards and Appeals, July 9, 2002

198-01-BZ

CEQR #01-BSA-144Q

APPLICANT- Sheldon Lobel, P.C., for Sputnik Restaurant Corp., owner; Ftelia Associates, Inc., lessee.

SUBJECT- Application May 25, 2001 - under Z.R. §72-21, to permit in an R4 zoning district, the enlargement to an existing legal non-conforming eating and drinking establishment, Use Group 6, which is contrary to Z.R. §§22-00 and 52-00.

PREMISES AFFECTED - 105-45 Cross Bay Boulevard, near 108th Avenue, bounded by Cross Bay Boulevard and 95th Street, Block 9163, Lot 71, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Lyra Altman.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on

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condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 1, 2001, acting on Application No. 401102294, reads:

“ Proposed enlargement of existing non-conforming eating and drinking establishment occupancy F-4/U.G.=6 in R-4 district (map 18A) contrary to ZR 22-00 & ZR 52-00"; and

WHEREAS, Community Board #10, Queens, unanimously recommends conditional approval of this application; and

WHEREAS, a public hearing was held on this application on January 29, 2002 after due notice by publication in *The City Record*, laid over to March 5, 2002, March 26, 2002, May 7, 2002, June 11, 2002, and then to July 9, 2002 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice Chair Satish Babbar R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R4 zoning district, the enlargement to an existing legal non-conforming eating and drinking establishment, Use Group 6, which is contrary to Z.R. §§22-00 and 52-00; and

WHEREAS, the subject site is located on the East side of Cross Bay Boulevard in the Ozone Park section of Queens, improved with a one-story diner containing approximately 15,082 square feet with an additional 1,634 square feet at the cellar level; and

WHEREAS, the applicant represents that the subject structure sits on a parcel that is irregularly shaped, houses an existing legal non-conforming use and fronts on a heavily trafficked roadway (Cross Bay Boulevard); and

WHEREAS, further, the parcel is irregular because it extends 114 feet along its Western Perimeter (the Cross Bay Boulevard side) and only 103 feet along its Eastern perimeter (95th Street), the northern perimeter forms an “L” shaped border and the southern perimeter runs straight at a length of 150 feet; and

WHEREAS, the applicant asserts that the subject parcel is unsuitable for residential use because it is surrounded mostly by commercial and community facility uses; and

WHEREAS, the record indicates that the Ozone Park section of Queens is characterized by mixture of residential, manufacturing and commercial uses; and

WHEREAS, the aforementioned unique physical condition, the irregular “L” shaped parcel and its history of development as a legal non-conforming use makes its occupancy for a conforming R-4 use impractical and creates an unnecessary hardship in developing the site in conformity with the current zoning; and

WHEREAS, the record indicates that the proposed enlargement will enable the existing eating and drinking establishment to maintain its viability; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the Board notes that the subject diner is a legal non-conforming use; and

WHEREAS, the record indicates that within the vicinity of the subject premises a mixture of commercial, community facility and residential uses are present; and

WHEREAS, in response to community concerns regarding adverse impact to the surrounding residential uses, the Board will require that a 6' high solid masonry wall be erected on 95th Street, that buffering be provided by a 6' high solid metal panel or plastic panel fence, that to improve security, additional light sanctions be provide along 95th Street; and

WHEREAS, therefore, the Board finds that this action, as modified, 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 hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, 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 §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and *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 Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit, in an R4 zoning district, the enlargement to an existing legal non-conforming eating and drinking establishment, Use Group 6, which is contrary to Z.R. §§22-00 and 52-00, on condition that all work shall substantially conform to drawings as they apply to the

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objections above noted, filed with this application marked "Received March 14, 2002"-(6) sheets and "April 23, 2002"-(1) sheet; and on further condition;

THAT a 6' high solid masonry wall be erected on 95th Street;

THAT a 6' high solid metal panel or plastic panel fence be provided and maintained;

THAT additional light sanctions be provide along 95th Street;

THAT all lighting shall be pointed down and away from adjoining residential uses;

THAT fire protection measures, including an automatic-wet sprinkler system in the cellar r, shall be provided and maintained in accordance with the BSA-approved plans;

THAT all automobile parking shall be in accordance with BSA-approved plans;

THAT landscaping shall be maintained in accordance with BSA-approved plans;

THAT there shall be no entering or exiting of cars on 95th Street;

THAT substantial construction will be completed in accordance with Z.R. §72-23;

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

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

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

THAT 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.

Adopted by the Board of Standards and Appeals, July 9, 2002.

201-01-BZ

CEQR #01-BSA-146K

APPLICANT - Sheldon Lobel, P.C., for John Lage, owner.
SUBJECT - Application May 31, 2001 - under Z.R. §72-21 to permit the proposed enlargement of an existing structure within a C4-1 zoning district, to be used as an automobile laundry, lubrication and detailing establishment and accessory automobile supply store, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 2591/2613 Atlantic Avenue aka 53/59 Georgia Avenue, between Georgia and Sheffield Avenues, Block 3668, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES -

For Applicant: Lyra Altman.

For Opposition: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5
Negative:.....0

THE RESOLUTION-

WHEREAS, the decisions of the Borough Commissioner, dated October 18, 2000, updated February 26, 2001 and May 1, 2002, and acting on Application No. 301084289, reads:

"1) Proposed automobile laundry, lubrication and detailing, auto supply store is not a permitted use as per ZR 32-00.

2) The temporary C. of O. 215572 under BSA Cal # 1280-65-BZ expired by limitations. Required to re-file with BSA."; and

WHEREAS, a public hearing was held on this application on January 8, 2002, after due notice by publication in *The City Record* and laid over to February 12, 2002, March 19, 2002, May 7, 2002, June 4, 2002 and then to July 9, 2002 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Satish Babbar, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed enlargement of an existing structure within a C4-1 zoning district, to be used as an automobile laundry, lubrication and detailing establishment and accessory automobile supply store, previously granted under Cal. Nos. 789-49-BZ and more recently under 1280-65-BZ, which expired February 1, 1987; and

WHEREAS, on December 19, 1950, under Calendar Number 789-45-BZ, the Board authorized the erection of a gasoline service station, lubritorium, auto laundry, motor vehicle repair shop and office; and

WHEREAS, on April 13, 1966, under Calendar Number 1280-65-BZ, the Board authorized the erection of an additional one-story enlargement to the service building on the premises, and on February 1, 1977, automotive service station use was discontinued and the term of the variance was extended for ten (10) years; and

WHEREAS, the applicant represents that there has been no discontinuance as a lubritorium, auto laundry, motor vehicle repair shop and office, since the original variance was granted; and

WHEREAS, the applicant seeks to completely renovate the existing structure so that the repair bays at the front of the structure will be removed, motor vehicle

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repairs will be discontinued, with the exception of oil changes, the auto laundry will be relocated within the structure, an accessory retail store will be added, and the existing 1204.5 sq. ft. portion of the structure which rests at the southeastern corner of the structure will be removed; and

WHEREAS, the applicant represents that the subject site is irregularly shaped and conditions have not substantially changed since the original variance was granted in 1950; and

WHEREAS, the Board finds that the unique physical conditions which are the result of the site's irregular shape, continuous history of automotive uses and existing automotive repair shop present a practical difficulty and unnecessary hardship for conforming with the strict application of the Zoning Resolution; and

WHEREAS, the Board finds that evidence in the record, including a feasibility study sufficiently demonstrates that a complying development would not yield a reasonable return; and

WHEREAS, the applicant represents that an automotive service station has occupied the premises since the original variance was granted in 1950; and

WHEREAS, the applicant represents that the subject premises is located in a C4-1 zoning district and is surrounded by commercial uses; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, nor impair the use of development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, as requested by the Board, the applicant has installed a 12" high curb topped with a wrought iron fence, located on the property line to discourage the queuing of cars on the sidewalk; and

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

WHEREAS, the Board finds that the variance application is the minimum variance 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 §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

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 Z.R. §72-21, and grants a variation in the application of the Zoning Resolution to permit the proposed enlargement of an existing structure within a C4-1 zoning district, to be used as an automobile laundry, lubrication and detailing establishment and accessory automobile supply store, which is contrary to Z.R. §32-00, on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received March 5, 2002"-(2) sheets, "April 23, 2002"-(1) sheet, and "April 25, 2002"-(1) sheet; and on further condition;

THAT the term of the variance shall be limited to ten (10) years expiring on April 16, 2012;

THAT the hours of operation shall be from 7 a.m. to 7 p.m. (Monday-Sunday);

THAT there shall be no automobile detailing at any time;

THAT all signage shall be provided in accordance with BSA-approved plans;

THAT the fence along Atlantic Avenue shall be maintained in accordance with BSA-approved plans;

THAT there shall be no cars blocking traffic on Atlantic Avenue;

THAT there shall be no cars entering from Georgia Avenue except for lubrication;

THAT there shall be no loitering on the premises;

THAT lighting shall be directed down and away from residential uses, and in accordance with BSA approved plans;

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

THAT substantial construction shall be completed in accordance with Z.R. §73-70;

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

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

THAT the Department of Buildings must ensure compliance with all 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."

Adopted by the Board of Standards and Appeals, July 9, 2002.

285-01-BZ
CEQR #02-BSA-032K

APPLICANT - Harold Weinberg, P.E., Consulting Engineer, P.C., for Yeshiva Yalde Torah by Sinai Halberstam, owner.

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SUBJECT - Application October 5, 2001 - under Z.R. §73-19, to permit the legalization of the first floor of the subject premises as a day care center, Use Group 3, and the enlargement of the second floor for said use, located in an M1-2 zoning district, which is contrary to §§42-00, 52-22 and 52-41.

PREMISES AFFECTED - 1045 38th Street, north side, 294'-2½," west of 10th Avenue, Block 5289, Lot 61, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Harold Weinberg.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4

Negative:.....0

Abstain: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated September 13, 2001 acting on Application No. 300822359 reads;

1. The proposed use of subject premises as a day care center (school) in Use Group 3 in an M1-2 Zoning District is contrary to Section 42-00 of the Zoning Resolution (ZR).
2. The proposed structural alteration to a non-conforming use is contrary to Section 52-22 ZR.
3. The proposed additional floor area to a non-conforming use is contrary to Section 52-41 ZR."; and

WHEREAS, a public hearing was held on this application on April 16, 2002 after due notice by publication in *The City Record*, and laid over to May 21, 2002, June 11, 2002 and then to July 9, 2002 for decision; and

WHEREAS, Community Board #12 in Brooklyn has recommended approval of the subject application;

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Commissioner Mitchell Korbey, and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §73-19 to permit the legalization of the first floor of the subject premises as a day care center, Use Group 3, and the enlargement of the second floor for said use, located in an M1-2 zoning district, which is contrary to §§42-00, 52-22 and 52-41; and

WHEREAS, evidence in the record indicates that the subject site is located on the north side of 38th Street,

between Fort Hamilton Parkway and 10th Avenue, and has a total lot area of 19,705.34 square feet; and

WHEREAS, the school provides educational and therapeutic services to children with handicapped conditions, and will operate from 9:00 A.M. to 2:00 P.M.; and

WHEREAS, the applicant represents that the children attending the day care will be primarily from the Borough Park area, bounded by 38th Street, 18th Avenue, 60th Street and 12th Avenue; and

WHEREAS, the applicant states that in the area of Borough Park, there is no available vacant land or existing buildings that can be modified for the purposes of the school; and

WHEREAS, the applicant has demonstrated difficulty in obtaining land for the development of a school within the neighborhood to be served by the proposed school, and with an adequate size within districts where the school is permitted as-of-right, sufficient to meet the programmatic needs of the school; and

WHEREAS, therefore, Board finds that the requirements of §73-19 (a) are met; and

WHEREAS, evidence in the record and assurances made by the applicant indicate that the proposed school is located within 400 feet of an R6 zoning district, where the school is permitted as-of-right, thus the requirements of §73-19 (b) are met; and

WHEREAS, the record also indicates that the subject premises is surrounded by a mix of commercial and residential uses, and although auto body repair shops exist within a 400 foot proximity, the Board has determined that there are not any air quality effects or impacts on the proposed day care from these uses; and

WHEREAS, the applicant represents that the walls of the subject premises will be constructed of solid masonry units, and the walls will be furred out to give an appropriate finish, thus reducing the transmission of sound emanating from and entering the school; and

WHEREAS, the Board finds that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is achieved through the use of sound attenuating exterior wall and window construction, as well as substantial open areas along both street frontages, thus satisfying the requirements of §73-19 (c); and

WHEREAS, the applicant represents that students will arrive and leave school by vans provided by the New York City Department of Transportation ("DOT"); and

WHEREAS, the DOT has blocked off six parking spaces in front of the school with a sign stating "NO PARKING IN FRONT OF SCHOOL ON SCHOOL DAYS FROM 8:00 A.M. TO 4:00 P.M." in order to provide space for the vans to deliver and pick up students; and

WHEREAS, based on DOT's review, the Board finds

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that the movement of traffic through the streets on which the school will be located can be controlled so as to protect children going to and from the school, and thus the requirements of §73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-19; and

WHEREAS, the applicant represents that deliveries will occur once a day, between the hours of 9:00 -11:00 A.M., and refuse pick-ups will be done by the Department of Sanitation on Mondays and Fridays; and

WHEREAS, at the request of the Board, the applicant has provided a lease agreement between the owners of the subject property and the City of New York for use of an accessory parking lot located at Block 5289, Lot 999; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern including potential parking and traffic impacts; and

WHEREAS, the Board finds that the hazards or disadvantages to the community at large are outweighed by the advantages to be derived from the granting of this special permit and that the application minimizes any adverse effects on privacy, quiet, light and air in the neighborhood; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the Board has determined that the proposed action, as modified, will not result in any significant environmental effects; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. 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 Z.R. § 73-19 to permit the legalization of the first floor of the subject premises as a day care center, Use Group 3, and the enlargement of the second floor for said use, located in an M1-2 zoning district, which is contrary to §§42-00, 52-22 and 52-41; *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received March 11, 2002" - (6) sheets and "Received June 24, 2002"- (2) sheets; and *on further condition*;

THAT, fire protection measures, including an

automatic wet sprinkler system, a smoke detection system, and an interior fire alarm system all connected to a Fire Department-approved central station shall be provided and maintained in the entire building;

THAT accessory parking shall be provided at Block 5289, Lot 999 and it shall be noted in the Certificate of Occupancy for Block 5289, Lot 999 that parking is reserved for the day care center;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

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

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

THAT the 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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 9, 2002.

304-01-BZ

CEQR #02-BSA-043K

APPLICANT - Sheldon Lobel, P.C., for Kneseth Bais Yaakov by Rabbi Kahn, owner.

SUBJECT - Application February 26, 2002 - under Z.R. §72-21, to permit the proposed construction of a community facility (synagogue), Use Group 4, located in an R2 zoning district, which does not comply with zoning requirements for floor area ratio, open space ratio, front and side yards, perimeter wall height, sky exposure plane and parking, and is contrary to Z.R. §§24-11, 24-3, 24-35, 24-521 and 25-18.

PREMISES AFFECTED - 1720 Avenue "J", southwest corner of East 18th Street, Block 6719, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman and Rabbi Kahn.

For Opposition: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

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WHEREAS, the decision of the Borough Commissioner, dated October 15, 2001 acting on N.B. Application No. 301230139 reads:

1. Floor Area Ratio (FAR) exceeds that permitted by Section 24-11
2. Open Space Ratio (OSR) is deficient from that required by Section 24-11
3. Proposed yard (front and side) is contrary to Section 24-34 and Section 24-35
4. Proposed building height not to exceed 25 ft. as per Section 24-521
5. Proposed building not to penetrate sky exposure plane as per Section 24-251
6. Provide parking requirements as per Section 25-18"; and

WHEREAS, a public hearing was held on this application on April 9, 2002 after due notice by publication in *The City Record* and laid over to June 4, 2002 and then to July 9, 2002 for decision; and

WHEREAS, Community Board # 14 in Brooklyn has recommended approval of the application based on the stipulation agreed to by the applicant to set the proposed building back five (5) feet from the Avenue J property line; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a community facility (synagogue), Use Group 4, located in an R2 zoning district, which does not comply with zoning requirements for floor area ratio, open space ratio, front and side yards, perimeter wall height, sky exposure plane and parking, and is contrary to Z.R. §§24-11, 24-3, 24-35, 24-521 and 25-18; and

WHEREAS, the subject site is a single lot, situated within an R2 zoning district, located on the southwest corner of East 18th Street and Avenue J, and currently improved with a two-story plus attic dwelling; and

WHEREAS, the proposal seeks to replace the existing dwelling with a three-story plus cellar synagogue; and

WHEREAS, the applicant represents that the proposed cellar, which features a multi-purpose room and kitchen, will be used to host events for the members of the congregation and will not be used for catering events for the general public; and

WHEREAS, the proposed first and second floors are intended to comprise the main sanctuary where the adults will pray, while the third floor will be occupied by youth rooms and offices; and

WHEREAS, the applicant states that the congregation, consisting of approximately 250 families, is currently located at a site which can only accommodate 150 people

seated; and

WHEREAS, the applicant represents and the Board finds that the existing facility does not have adequate space to accommodate the growing population of the Congregation, and that the Congregation is composed of approximately 200 families, and therefore does not meet the programmatic needs of the synagogue; and

WHEREAS, the applicant further states that without the variance, a smaller facility would leave inadequate room for the inevitable growth of the congregation;

WHEREAS, in addition, where a non-profit community facility's programmatic needs create practical difficulties and unnecessary hardship in complying strictly with the Zoning Resolution, a variance should be granted unless it unarguably contravenes public health, safety or welfare or creates a severe detriment to the character of the neighborhood; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its not-for-profit status; and

WHEREAS, at the request of the Board and in response to community concerns, the applicant has substantially reduced the bulk of the proposal from an initial FAR of 2.75 to a proposed FAR of 2.0, resulting in a structure that has greater setbacks and less physical impact on the community; and

WHEREAS, the Board notes that a synagogue is an as-of-right use in an R2 zoning district; and

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

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

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

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 Z.R. § 72-21, to permit the proposed construction of a community facility (synagogue), Use Group 4, located in an R2 zoning district,

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which does not comply with zoning requirements for floor area ratio, open space ratio, front and side yards, perimeter wall height, sky exposure plane and parking, and is contrary to Z.R. §§24-11, 24-3, 24-35, 24-521 and 25-18, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 18, 2002"- (12) sheets; and *on further condition*;

THAT it shall be noted in the Certificate of Occupancy that there shall be no commercial catering on the premises;

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

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

THAT 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.

Adopted by the Board of Standards and Appeals, July 9, 2002.

81-02-BZ

CEQR #02-BSA-154K

APPLICANT - Moshe M. Friedman, P.E., for Beth Jacob Day School, owner.

SUBJECT - Application March 20, 2002 - under Z.R. §72-21, to permit the proposed construction of a four-story school, Use Group 3, located in an R5 Special Ocean Parkway zoning district, which is contrary to §§113-11, 23-141(b), 23-622(d), 23-462(a) and 113-22(b).

PREMISES AFFECTED - 100 Lawrence Avenue, aka 98/102 Lawrence Avenue, south side, 50' west of the intersection of Lawrence Avenue and Seton Place (East 3rd Street), Block 5422, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Moshe Friedman.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4

Negative:.....0

Abstain: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough

Commissioner dated March 14, 2002 acting on N.B. Application No. 301124290, reads;

"Proposed School is contrary to
ZR Sec 113-11 & 23-141(b) Floor Area
ZR Sec 113-11 & 23-141(b) Open Space & Lot Coverage
ZR Sec 113-11 & 23-622(d) Street Wall
ZR Sec 113-11 & 23-622(d) Total Height
ZR Sec 113-22(b) Loading
and requires a Variance from the Board of Standards and Appeals, as per Sec 72-21"; and

WHEREAS, a public hearing was held on this application on June 4, 2002 after due notice by publication in *The City Record*, and laid over to July 9, 2002 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Babbar and Commissioner Mitchell Korbey; and

WHEREAS, this is an application under Z.R. §§72-21 to permit the proposed construction of a four-story school, Use Group 3, located in an R5 Special Ocean Parkway zoning district, which is contrary to §§113-11, 23-141(b), 23-622(d), 23-462(a) and 113-22(b); and

WHEREAS, by letter dated May 15, 2002, Community Board #14 has recommended approval of this application; and

WHEREAS, the subject site is 5,000 square foot parcel of land, situated in an R5 zoning district within the Special Ocean Parkway District, with 50 feet of frontage on Lawrence Avenue; and

WHEREAS, the property is currently improved with a one-story, non-conforming manufacturing building which the applicant proposes to demolish and develop with a four-story and cellar high school; and

WHEREAS, the applicant represents that the proposed school will provide religious and secular education to high school students within the Borough Park and Midwood communities; and

WHEREAS, the proposed high school (grades 9 through 12) is currently operating within the existing elementary school building located directly in the rear of the proposed site at 98 Parkville Avenue; and

WHEREAS, the proposed hours of operation will be 8:45 AM to 4:45 PM Monday through Thursday and 8:45 AM to 1:30 PM on Friday; and

WHEREAS, the applicant states that the programmatic needs of the high school require more classroom space in order to accommodate the burgeoning population of the surrounding community; and

WHEREAS, in order to meet these programmatic needs, a new structure for the high school must be constructed within close proximity to the elementary school, as both schools will utilize the same administrative

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and support staff; and

WHEREAS, the applicant represents the strains of the resources in the current elementary school building create a practical difficulty and unnecessary hardship that requires the construction of a new structure and a waiver of the floor area, open space and lot coverage, street wall, total height and rear yard requirements to meet the programmatic need of the school;

WHEREAS, in addition, where a non-profit community facility's programmatic needs create practical difficulties and unnecessary hardship in complying strictly with the Zoning Resolution, a variance should be granted unless it unarguably contravenes public health, safety or welfare or creates a severe detriment to the character of the neighborhood; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development on this site will be in furtherance of its not-for-profit purposes; and

WHEREAS, the applicant states that the proposed high school will be used in conjunction with the adjacent elementary school and that there will be a rear door connecting the building to the rear of the adjacent lot in order to allow the students to enter from one building directly to another; and

WHEREAS, the applicant represents that the proposed school does not anticipate an increase in either the student body or the number of teachers, which is currently 260 and 46 respectively at existing school located at the 85 Parkville Avenue location; and

WHEREAS, the number of teachers will remain the same since the elementary and high school will share the same administration, which will remain at the 85 Parkville Avenue location; and

WHEREAS, the applicant represents that most deliveries will continue to be made to the elementary school building located at their present site, 85 Parkville Avenue and the applicant expects only sporadic deliveries at the new location, 100 Lawrence Avenue; and

WHEREAS, refuse picks-ups by the New York City Department of Sanitation is on Mondays and Thursdays; and

WHEREAS, the Board finds that the removal of the current non-conforming Use Group 17 manufacturing building and the replacement with a new conforming use will have minimal impact on the community; and

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

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

WHEREAS, evidence in the record demonstrates that

this proposal is the minimum necessary to meet the programmatic needs of the school; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern including potential parking and traffic impacts; and

WHEREAS, the Board finds that the hazards or disadvantages to the community at large are outweighed by the advantages to be derived from the granting of this special permit and that the application minimizes any adverse effects on privacy, quiet, light and air in the neighborhood; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the Board has determined that the proposed action will not result in any significant environmental effects; and

WHEREAS, the applicant represents that school buses are not used at the existing school and will not be used at the proposed school; and

WHEREAS, similar to the current student body, the proposed students will arrive and depart from school by car pools, walking, van service, or mass transit and student drop-offs will be at the existing "No Parking" zones on Seton Place (East 3rd Street) or on Parkville Avenue; and

WHEREAS, based on this information, the Board finds that there will not be any traffic safety issues associated with the proposal; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. 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 Z.R. §§72-21 to permit the proposed construction of a four-story school, Use Group 3, located in an R5 Special Ocean Parkway zoning district, which is contrary to §§113-11, 23-141(b), 23-622(d), 23-462(a) and 113-22(b); *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received April 29, 2002"- (12) sheets; and *on further condition*;

THAT fire protection measures shall be provided and

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maintained in accordance with the BSA-approved plans;

THAT the DOT shall place signs in front of the new high school building stating that there is to be no parking from 8:00 AM to 5:00 PM on school days;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 9, 2002.

section 96-102 of the Zoning resolution in that the lot coverage ratio exceeds 70% on the portion of the lot with 100' of Ninth Avenue and exceeds 60% on the portion of the lot beyond 100' of Ninth Avenue.

2. Proposed building does not comply with section 33-341 of the Zoning Resolution in that the building penetrates the initial setback distance and the sky exposure plane.”; and

WHEREAS, a public hearing was held on this application on June 4, 2002 after due notice by publication in *The City Record* and laid over to July 9, 2002 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Babbar, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of new building for the Alvin Ailey Dance Foundation, Use Group 4, located in an R8 (C1-5)/C6-2 zoning district and the Special Clinton District, which does not comply with the zoning requirements for lot coverage, initial setback distance and height and is contrary to Z.R. §§96-102 and 33-341; and

WHEREAS, the proposed building will be located on a site owned by the applicant on the northwest corner of Ninth Avenue and West 55th Street in Manhattan; and

WHEREAS, subject site is located in two zoning districts, as the portion within 100 feet of Ninth Avenue is located within an R8 (C1-5) and the portion which is more than 100 feet of Ninth Avenue is located within a C6-2 zoning district.

WHEREAS, the subject site is situated within the Preservation Area of the Special Clinton District and has 80 feet of frontage on the west side of Ninth Avenue and 150 feet of frontage on the north side of West 55th Street, with a total lot area of 14,076 square feet; and

WHEREAS, the Alvin Ailey Dance Foundation is a not-for-profit corporation proposing to develop a new headquarters building to accommodate its varied program of dance performance and education; and

WHEREAS, the proposed building will be occupied by Alvin Ailey’s dance companies, The Ailey School and the Ailey Arts in Education and Community Outreach Programs, and will include (1) up to 14 new dance studios including two studios which will convert to a 5,000 square foot “blackbox” theater with seating for approximately 300 people for use by Alvin Ailey and others in the dance community as a performance space, (2) support facilities such as a costume room, dressing rooms and warm-up areas, (3) student and faculty areas and (4) administrative office space; and

WHEREAS, the proposed building is seven stories

92-02-BZ

CEQR #02-BSA-163M

APPLICANT - Paul, Hastings, Janofsky & Walker, LLP, by Elise Wagner, Esq., and Jeremiah H. Candreva, Esq., for Alvin Ailey Dance Foundation, owner.

SUBJECT - Application March 28, 2002 - under Z.R. §72-21, to permit the proposed construction of new building for the Alvin Ailey Dance Foundation, Use Group 4, located in an R8 (C1-5)/C6-2 zoning district and the Special Clinton District, which does not comply with the zoning requirements for lot coverage, initial setback distance and height and is contrary to Z.R. §§96-102 and 33-341.

PREMISES AFFECTED - 841/49 Ninth Avenue and 401/09 West 55th Street, northwest corner, Block 1065, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Elise Wagner.

For Opposition: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 27, 2002 acting on N.B. Application No. 103084877 reads:

“1. Proposed building does not comply with

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above grade and two below grade, with 59,123 of floor area, and an entrance on West 55th Street; and

WHEREAS, the applicant represents that Alvin Ailey is currently located on two floors within a former industrial building located at 211 West 61st Street which is inadequate to meet the minimum dance studio size requirements of the organization; and

WHEREAS, the applicant represents that the subject site contains several unique conditions including an irregular trapezoidal shape, changes in grade and split lot zoning designation leading to a practical difficulty and unnecessary hardship in complying strictly with the Zoning Resolution; and

WHEREAS, the subject site has a trapezoidal shape, as the street frontage along Ninth Avenue is shorter than the site's depth at midblock, which creates difficulties in accommodating the dance studios; and

WHEREAS, the subject site's grade increases from 44 feet at the western end of the site on West 55th Street to 53 feet at the northern end of the site on Ninth Avenue, which interferes with the floor heights needed for the dance studios; and

WHEREAS, the lot coverage regulations require the as-of-right building to occupy only 70% of the R8 (C1-5) portion of the lot and only 60% of the C6-2 portion of the lot, and the height and setback regulations require a setback at 85 feet in height; and

WHEREAS, the applicant states that the zoning requirements create smaller and less efficient floor plates, particularly at the top of the building, and hinder the ability to meet the minimum dimensions necessary for the proposed dance studios; and

WHEREAS, therefore, the Board finds that the applicant has met the requirements of Z.R. §72-21(a); and

WHEREAS, in addition, where a non-profit community facility's programmatic needs create practical difficulties and unnecessary hardship in complying strictly with the Zoning Resolution, a variance should be granted unless it unarguably contravenes public health, safety or welfare or creates a severe detriment to the character of the neighborhood; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its not-for-profit status; and

WHEREAS, the record indicates that the surrounding neighborhood is composed of a variety of building types containing mixed use, residential, commercial, industrial and community facility uses; and

WHEREAS, the applicant represents that the proposed building is designed to harmonize with both the varied architecture of the Clinton area and the buildings immediately adjacent to the subject site, as it is taller on the Ninth Avenue frontage and shorter on the midblock

portion; and

WHEREAS, the applicant further represents that the proposed use is consistent with the range of uses in the neighborhood, namely the various performing arts and educational facilities; and

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

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

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

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 Z.R. §72-21, to permit the proposed construction of new building for the Alvin Ailey Dance Foundation, Use Group 4, located in an R8 (C1-5)/C6-2 zoning district and the Special Clinton District, which does not comply with the zoning requirements for lot coverage, initial setback distance and height and is contrary to Z.R. §§96-102 and 33-341, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 28, 2002"- (16) sheets; 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;

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.

Adopted by the Board of Standards and Appeals, July 9, 2002.

281-99-BZ

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APPLICANT - Jay A. Segal (Greenberg Traurig), for Enopac Holding LLC, owner.

SUBJECT - Application November 5, 1999 - under Z.R. §72-21, to permit the proposed mini-storage facility (Use Group 16) located in an R3-1 zoning district, which is contrary to Z.R. §22-10.

PREMISES AFFECTED - 6055 Strictland Avenue, west side of Strictland Avenue roughly between the prolongation of Mayfair Avenue and East 59th Place, Block 8470, Lots 1060, 1064, 1070, 1076, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Jay Segal, Andy Roberto, Jack Freeman, Linda Kenney and others.

For Opposition: Roberta Sherman, Carol Abrams and other.
For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to August 13, 2002, at 2 P.M., for continued hearing.

215-01-BZ

APPLICANT - Fredrick A. Becker, Esq., for 185 Union Realty, LLC, owner.

SUBJECT - Application June 13, 2001 - under Z.R. §72-21, to permit the proposed construction of a four story and cellar multiple dwelling (Use Group 2) located in an M3-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 85 Union Avenue, southwest corner of Lorimer Street, Block 2245, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Fredrick Becker.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to July 23, 2002, at 2 P.M., for continued hearing.

234-01-BZ

APPLICANT - Sheldon Lobel, P.C., for 80 North 5th Street, Corp., owner.

SUBJECT - Application July 10, 2001 - under Z.R. §72-21, to permit the proposed conversion of the second, third and fourth floors of an existing building in an manufacturing zone (M3-1 zoning district), to residential uses, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 80 North 5th Street, north side, bounded west by Wythe Avenue and south by North 4th Street, Block 2342, Lots 1, 15 and 31, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane, Jagcon Kim and Sheldon Lobel.

ACTION OF THE BOARD - Laid over to August 6, 2002, at 2 P.M., for continued hearing.

244-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Rodney Street Corp., owner.

SUBJECT - Application July 24, 2001 - under Z.R. §72-21, to permit the legalization of residential units within an existing three story building located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 325 South First Street, aka 398/404 Rodney Street, northeast corner, Block 2398, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahallane.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to July 23, 2002, at 2 P.M., for continued hearing.

303-01-BZ

APPLICANT - Sheldon Lobel, P.C., for BP Amoco, plc, owner; BP Amoco, plc; lessee.

SUBJECT - Application October 31, 2001 - under Z.R. §72-21, to permit the proposed construction of an automotive service station with an accessory convenience store, Use Group 16, located in a C1-3 zoning district, which is contrary to Z.R. §32-25.

PREMISES AFFECTED - 756 Myrtle Avenue, between Nostrand and Marcy Avenues, Block 1754, Lot 7 (previously 7, 8, 9, 11 and 13), Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Laid over to August 13, 2002, at 2 P.M., for continued hearing.

321-01-BZ

APPLICANT - Titan Towers, LP, Pitney, Hardin, Kipp & Szuch, LLP, for Motiva Enterprises, LLC, owner.

SUBJECT - Application February 14, 2002 - under Z.R. §73-30, to permit the proposed construction of a 475' lattice communications tower, and two prefabricated 12' x 20' equipment shelters at the base of the tower, located in an M3-1 zoning district, which requires a special permit as per Z.R. §73-30.

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PREMISES AFFECTED - 25 Paidge Avenue, on the corner of McGuinness Boulevard, Block 2491, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Michael Vitielb.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to October 8, 2002, at 2 P.M., for continued hearing.

360-01-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Kings Knapp Development Corp., owner.

SUBJECT - Application November 19, 2002 - under Z.R. §§73-211 & 73-212, to permit the proposed enlargement in lot area to an existing automotive service station with accessory uses (Use Group 16) previously before the Board under Cal. Number 249-29-BZ, and the construction of a new one story accessory convenience store and a new metal canopy above a new fuel dispensing area, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 2228 Gerritsen Avenue, southwest corner of Avenue "U", Block 7370, Lots 10 and 15, Borough of Brooklyn.

COMMUNITY BOARD #15

APPEARANCES -

For Applicant: Carl A. Sulfaro.

For Opposition: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to August 13, 2002, at 2 P.M., for continued hearing.

366-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Driggs Realty Corp., owner.

SUBJECT - Application November 20, 2001 - under Z.R. §72-21, to permit the proposed conversion of a six story manufacturing building, into residential dwellings, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 500 Driggs Avenue, aka 482/504 Driggs Avenue, through lot fronting North 9th and 10th Streets, Block 2305, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane and Jerry Jacobs.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to August 6,

2002, at 2 P.M., for continued hearing.

369-01-BZ

APPLICANT - Sheldon Lobel, P.C., for SYC, LLC, owner.
SUBJECT - Application November 27, 2001 - under Z.R. §72-21, to permit the legalization of an existing three story residential building, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 303 Seigel Street, northwest corner of Bogart Street, Block 3092, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to August 6, 2002, at 2 P.M., for continued hearing.

373-01-BZ

APPLICANT - Sheldon Lobel, P.C., for 372-376 Avenue U Realty, LLC, owner.

SUBJECT - Application November 29, 2001 - under Z.R. §72-21, to permit the proposed use of the 2nd, 3rd and 4th floors of a proposed four story masonry building, as medical offices, Use Group 4, located in an R6A zoning district, which is contrary to Z.R. §22-14.

PREMISES AFFECTED - 372 Avenue "U", between East 1st and 2nd Streets, Block 7128, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Sheldon Lobel.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to August 6, 2002, at 2 P.M., for continued hearing.

395-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Mutual Realty, LLC, owner.

SUBJECT - Application December 17, 2001 - under Z.R. §72-21, to permit the proposed addition of a mezzanine in an existing manufacturing building, Use Group 17B, which exceeds the maximum permitted floor area ratio, and to

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waive the additional parking requirement due to the increase in floor area ratio, which is contrary to Z.R. §43-12 and §44-21.

PREMISES AFFECTED - 36-27 Vernon Boulevard, south side, between 36th and 37th Avenues, Block 355, Lot 7, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES-

For the Applicant: Lyra J. Altman

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:0

ACTION OF THE BOARD - Laid over to July 23, 2002, at 2 P.M., for decision, hearing closed.

404-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Maurice Wachsmann, owner.

SUBJECT- Application May 7, 2002 - under Z.R. §73-622, to permit the proposed enlargement of an existing single family dwelling, Use Group 1, located in an R2 zoning district, which does comply with the zoning requirements for floor area ratio, open space ratio and rear yard, and is contrary to Z.R. §23-141 and §23-46.

PREMISES AFFECTED - 1182 East 28th Street, 120' north of Avenue "L", Block 7627, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to August 13, 2002, at 2 P.M., for continued hearing.

27-02-BZ

APPLICANT - Omer Fenik, Architects, Omer E. Fenik, R.A., for 287 Hudson Realty Corp., owner.

SUBJECT- Application January 15, 2002 - under Z.R. §72-21, to permit the legalization of the second floor conversion from office, to residential use within the existing four story mixed use building, located in an M1-6 zoning district, is contrary to Z.R. §52-35.

PREMISES AFFECTED - 287 Hudson Street, west side, 50'-0" south of Spring Street, Block 594, Lot 81, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Peter Hirshman, Doris Diether, Community Board #2 and Deborah Riegel.

For Opposition: Stuart Klein.

THE VOTE TO REOPEN HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:0

ACTION OF THE BOARD - Laid over to August 13, 2002, at 2 P.M., for continued hearing.

57-02-BZ

APPLICANT - Klein & O'Brien, LLP, by Allison Farina, Esq., for Northside Studios, LLC by Moshe Reisman, owner.

SUBJECT - Application February 14, 2002 - under Z.R. §72-21, to permit the proposed enlargement and conversion of an existing two-story brick manufacturing building, to a four-story residential building, with eleven dwelling units, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED- 194 North 14th Street, border by Wythe Avenue east side of Nassau Avenue and west side of Berry Street, Block 2279, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Stuart Klein and Allison Farina.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to September 10, 2002, at 2 P.M., for continued hearing.

58-02-A

APPLICANT - Klein & O'Brien, LLP, by Allison Farina, Esq., for Northside Studios, LLC by Moshe Reisman, owner.

SUBJECT - Application - February 14, 2002 - Proposed enlargement and conversion of an existing two-story brick manufacturing building, to a four-story residential building, with eleven dwelling units, requires a 30' rear yard as per Article 3, Section 26 of the Multiple Dwelling Law. PREMISES AFFECTED- 194 North 14th Street, border by Wythe Avenue east side of Nassau Avenue and west side of Berry Street, Block 2279, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Stuart Klein and Allison Farina.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to September 10, 2002, at 2 P.M., for continued hearing.

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104-02-BZ

APPLICANT - Joseph P. Morsellino, for Flushing Bay Realty Corp., owner; Helms Brothers, contract vendee.

SUBJECT - Application April 9, 2002 - under Z.R. §72-21, to permit the proposed use of the property for the storage of new automobiles, prior to delivery to customers, located in a C3 zoning district, which is contrary Z.R. §32-10.

PREMISES AFFECTED - 23-40 120th Street, a/k/a 23-16 120th Street, southwest corner of 20th Avenue, Block 4223, Lot 21, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph Morsellino.

For Opposition: Frank Cappola.

For Administration: Capt. Michael Maloney and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to August 6, 2002, at 2 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 7:00 P.M.

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