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# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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Volume 88, No. 45

November 6, 2003

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### DIRECTORY

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**JOEL A. MIELE, SR.**

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**325-03-BZ** B.S.I. 307 Hamden Avenue, north side, 90' east of Boundary Avenue, Block 3687, Lot 6, Borough of Staten Island. Applic.#500509602. Proposed construction of a one family dwelling, Use Group 2, located in an R3-2 zoning district, which does not comply with the zoning requirement for front yard, is contrary to Z.R.§23-45.

**COMMUNITY BOARD #2SI**

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**326-03-BZ** B.S.I. 309 Hamden Avenue, north side, 130' east of Boundary Avenue, Block 3687, Lot 8, Borough of Staten Island. Applic.#500509611. Proposed construction of a one family dwelling, Use Group 2, located in an R3-2 zoning district, which does not comply with the zoning requirement for front yard, is contrary to Z.R.§23-45.

**COMMUNITY BOARD #2SI**

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**327-03-BZ** B.Q. 175-35 148TH Road, between Guy Brewer Boulevard and 175th Street, Block 13379, Lot 21, Borough of Queens.Alt.Type 1#401706196. Proposed enlargement of an existing warehouse, located in an M1-1 zoning district, requires a special permit from the Board as per Z.R. §73-53.

**COMMUNITY BOARD #13Q**

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**328-03-BZ** B.S.I. 930/36 Richmond Avenue, between Forest Avenue and Monsey Place, Block 1706, Lots 36 and 39, Borough of Staten Island. Applic.#500644207. Proposed enlargement and structural alterations, in furtherance of a proposed change of use from an existing motor vehicles repair shop, to an automobile laundry, auto reservoirs, auto lubritorium and accessory offices, Use Group 16, located C1-1 within an R3-2 zoning district, is contrary to a previous variance granted by the Board under Cal. No. 542-41-BZ and Z.R§11-52, §52-22 and §52-14.

**COMMUNITY BOARD #1Q**

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

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# CALENDAR

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**DECEMBER 9, 2003, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, December 9, 2003, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

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**SPECIAL ORDER CALENDAR**

**465-55-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for 325 North Macquesten Parkway Corporation, owner; Abko Inc dba Carwash Associates, lessee.

SUBJECT - Application June 13, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 486/496 Coney Island Avenue aka 804/826 Church Avenue, west side of Coney Island Avenue 91' 9 1/8" south of the corner of Church Avenue and Coney Island Avenue) Block 5341, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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**138-68-BZ**

APPLICANT - Francis R. Angelino, Esq., for Martin A. Gleason Funeral Home, LLC, owner.

SUBJECT - Application October 6, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 10-25 150th Street, northeast corner of 11th Avenue, Block 4515, Lot 1, Borough of Queens.

**COMMUNITY BOARD #7Q**

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**799-89-BZ**

APPLICANT - Kalb & Rosenfeld, P.C., for 1470 Bruckner Boulevard Corp., owner.

SUBJECT - Application August 8, 2003 - reopening for an extension of term of variance which expired July 13, 2003.

PREMISES AFFECTED - 1470 Bruckner Boulevard, southeast corner of Bruckner Boulevard and Colgate Avenue, Block 3649, Lots 30 and 27, Borough of The Bronx.

**COMMUNITY BOARD #9BX**

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SUBJECT - Application June 20, 2003 - under Z.R.§72-21 to permit the proposed expansion and also the conversion of an existing warehouse, to residential use, Use Group 2, located in an M1-4(Special LIC District), which does not comply with the zoning requirements for the new use, floor area and total height, is contrary to Z.R.§43-12,§43-43 and §42-10.

**385-01-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Bais Tziporah, Inc., owner.

SUBJECT - Application October 2, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1449 39th Street, northside 290' west of intersection of 39th Street and 15th Avenue, Block 5347, Lot 58, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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**APPEALS CALENDAR**

**311-03-A thru 313-03-A**

APPLICANT - Rudolf J. Beneda, A.I.A., for M.Y.H.P. Building Corp., owner.

SUBJECT - Application October 9, 2003 - Proposed two-story, two family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -

140 Jackson Avenue, west side, 103.90' south of Robin Road, Block 3124, Lot 500, Borough of Staten Island.

144 Jackson Avenue, west side, 137.33' south of Robin Road, Block 3124, Lot 502, Borough of Staten Island.

146 Jackson Avenue, west side, 154.95' south of Robin Road, Block 3124, Lot 180, Borough of Staten Island.

**COMMUNITY BOARD #1S.I.**

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**DECEMBER 9, 2003, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, December 9, 2003, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**ZONING CALENDAR**

**211-03-BZ**

APPLICANT - Eric Palatnik, P.C., for Simon Blitz, Contract Vendee.

PREMISES AFFECTED - 529-535 48th Avenue, between Vernon Boulevard and Fifth Street, Block 30, Lot 9, Borough of Queens.

**COMMUNITY BOARD #1Q**

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# CALENDAR

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**230-03-BZ**

APPLICANT - Alfred V. Saulo, Architect, for Mike Graziano, owner.

SUBJECT - Application July 2, 2003 - under Z.R. §72-21 to permit the proposed erection of a one family detached residence, Use Group 1, located in an R-3A zoning district, which does not comply with the zoning requirements for front yard is contrary to Z.R. §23-45.

PREMISES AFFECTED - 144 Billop Avenue, southeast corner of Brighton Street, Block 7881, Lots 67, 1 and 2, Borough of Staten Island.

**COMMUNITY BOARD #3S.I.**

**241-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Chaya Knopf, owner.

SUBJECT - Application July 10, 2003 - under Z.R. §73-622 to permit the proposed enlargement to an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear yard and minimum side yard, is contrary to Z.R. §23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1183 East 28th Street, east side, 100' north of Avenue "L", Block 7628, Lot 11, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

**242-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Sion Maslaton, owner.

SUBJECT - Application July 10, 2003 - under Z.R. §73-622 to permit the proposed enlargement to an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear yard, side yard, minimum side yard, lot coverage and perimeter wall, is contrary to Z.R. §23-141(b), §23-47 and §23-48 and §23-631(b)

PREMISES AFFECTED - 1858 East 26th Street, west side, 285'-0" north of Avenue "S", Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

**REGULAR MEETING  
TUESDAY MORNING, OCTOBER 28, 2003  
10:00 A.M.**

**Present:** Chairman Chin, Commissioner Caliendo and Commissioner Miele.

**Absent:** Vice-Chair Babbar.

**266-03-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for 1710-2 McDonald Realty, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §73-50 to permit the proposed enlargement of an existing warehouse (furniture), situated in an M1-1 zoning district, by constructing a one-story addition at the rear, that will encroach into the required yard between district boundaries, is contrary to Z.R. §43-302.

PREMISES AFFECTED - 1710/12 McDonald Avenue, west side, 60' south of Avenue "O", Block 6607, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

**289-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Aldo Paronich, owner.

SUBJECT - Application August 29, 2003 - under Z.R. §73-53 to permit the legalization of an existing contractor' establishment, Use Group 16, located in an M1-1 zoning district, which is currently overbuilt by 21% beyond the permitted floor area ratio of 1.0 is contrary to Z.R. §43-12.

PREMISES AFFECTED - 440 Morgan Avenue, southeast corner of Frost Street, Block 2869, Lot 5, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

**309-03-BZ**

APPLICANT - Howard A. Zipser, Stadtmauer Bailkin, LLP, for James Horvath, owner.

SUBJECT - Application October 6, 2003 - under Z.R. §72-21 to permit the proposed erection of a six-story residential building, Use Group 2, on a zoning lot, divided by C6-1 and R6 zoning districts, which does not comply with the zoning requirements for floor area, height and setback limit per table A, which is contrary to Z.R. §§23-145 and 23-633.

PREMISES AFFECTED - 744/48 Greenwich Street, west side, between Perry and West 11th Streets, Block 633, Lots 20 and 119, Borough of Manhattan.

**COMMUNITY BOARD #2M**

*Pasquale Pacifico, Executive Director*

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, August 12, 2003, were approved as printed in the Bulletin of August 21, 2003, Volume 88, No. 33.

**SPECIAL ORDER CALENDAR**

**545-56-BZ**

APPLICANT - Walter T. Gorman, P.E., for Williamsbridge Road

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# MINUTES

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Realty Corp., owner; Williamsbridge Auto Repairs/Service Station; lessee.

SUBJECT - Application July 22, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 2001-2007 Williamsbridge Road aka 1131-39 Neill Avenue, northwest corner of Neill Avenue, Block 4306, Lot 20, Borough of The Bronx.

**COMMUNITY BOARD #11BX**

**APPEARANCES -**

For Applicant: John Ronan.

**ACTION OF THE BOARD** - Application re-opened and resolution amended.

**THE VOTE TO GRANT -**

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**THE RESOLUTION-**

WHEREAS, a public hearing was held on this application on October 7, 2003 after due notice by publication in The City Record, and laid over to October 28, 2003 decision; and

WHEREAS, the applicant seeks permission for the erection of a new canopy; and

WHEREAS, on October 29, 1957, the Board permitted the erection and maintenance of a gasoline service station with accessory uses; and

Resolved, that the Board of Standards and Appeals reopens and amends the resolution pursuant to Z.R. §11-412 and reopens and amends the resolution, adopted on October 29, 1957, amended through August 6, 2002, so that as amended this portion of the resolution shall read: "to permit the erection of a metal canopy," on condition

THAT all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 22, 2003"-(4) sheets; and on further condition;

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

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

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

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

WHEREAS, the Board notes that at the time of the variance, half of the zoning lot was in an R10 equivalent district and half in an R9 equivalent district and that a floor area increase was allowed as-of-right for a Plaza in the R10 portion of the lot but not in the R9 portion; and

WHEREAS, the variance required a certain amount of open space around the entire building including along Amsterdam Avenue and West 78th Streets; and

WHEREAS, subsequently, the Board permitted, in the R9 zoning district, an open sidewalk café for a term of five years under Calendar Number 374-75-BZ; 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 Applications # 200794649

Adopted by the Board of Standards and Appeals, October 28, 2003.

**36-70-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for 200 West 79th Street Owners, Inc., owner; Amstore Limited Partnership, lessee.

SUBJECT - Application April 22, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 200-204 West 79<sup>th</sup> Street, a/k/a 380 Amsterdam Avenue, west side of Amsterdam between West 78th Street and 79th Streets, Block 1170,, Lot 7501 FKA 29, 30, 32, 34, 35, 36, Borough of Manhattan.

**COMMUNITY BOARD #7M**

**APPEARANCES -**

For Applicant: Barbara Hair.

**ACTION OF THE BOARD** - Application reopened and resolution amended.

**THE VOTE TO GRANT -**

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on June 24, 2003, after due notice by publication in The City Record, laid over to September 9, 2003, October 7, 2003 and then to October 28, 2003 for decision; and

WHEREAS, the applicant has requested an amendment seeking to allow an open air café in summer and an enclosed café in winter, within a privately own public plaza; and

WHEREAS, the proposal would have also required the placement of public seating and tables where waiter service would not be permitted, and signage to inform the public; and

WHEREAS, on May 12, 1970, the Board granted a variance pursuant to Z.R. §72-21 permitting the construction of an 18-story residential building with ground floor commercial uses; and

WHEREAS, the record indicates that the café increased the degree of non-compliance in floor area ratio and open space ratio; and

WHEREAS, therefore, on November 17, 1981, the Board permitted the applicant to withdraw an application to extend the term; and

WHEREAS, at the request of the West 78th Street Block Association and with the knowledge of the Department of City Planning, the applicant has revised the plans and eliminated public tables and seating; and

Resolved, that the Board of Standards and Appeals reopens and amends the resolution, pursuant to Z.R. § 72-01 and 72-22,

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# MINUTES

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said resolution having been adopted on May 12, 1970 so that as amended this portion of the resolution shall read:

"To permit, in a privately own public plaza, an open air café in the summer time and an enclosed café in winter," on condition

THAT all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 29, 2003"- (3) sheets; and on further condition;

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

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

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

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

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

(DOB Application # 103429176)

Adopted by the Board of Standards and Appeals, October 28, 2003.

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## 608-85-BZ

APPLICANT - The Agusta Group, for J.C. Organization, LLC, owner.

SUBJECT - Application May 13, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired June 17, 2001 and for an amendment to the resolution.

PREMISES AFFECTED - 33-56 11th Street, west side 11th Street, 235' south of 33rd Road, Block 319, Lot 36, Borough of Queens.

"to permit the extension of the term of the Variance for an additional ten (10) years from June 17, 2001, expiring on June 17, 2011, and to legalize the construction of a second mezzanine in the rear of the subject building, on condition

THAT all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 30, 2003" -(1) sheet and "October 14, 2003"- (2) sheets; and on further condition;

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

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

THAT buffering at the rear and the side of the subject property, in the form of Evergreen or similar trees, shall be provided and maintained in accordance with BSA approved plans;

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

THAT this approval is limited to the relief granted by the

## COMMUNITY BOARD #1Q

APPEARANCES - None.

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

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Caliendo and

Commissioner Miele.....3

Negative: .....0

Absent: Vice-Chair Babbar .....1

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on July 22, 2003, after due notice by publication in The City Record, and laid over to September 16, 2003, October 7, 2003, and then to October 28, 2003 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, an extension of the term of the variance which expired on June 17, 2001, and an amendment to the resolution; and

WHEREAS, Community Board 1 recommended conditional approval of the subject application; and

WHEREAS, the applicant seeks to renew the term of a previously granted variance, permitting the erection of a one (1) story and mezzanine structure for use as a commercial woodworking and cabinetry shop, with accessory offices, which did not conform to the use regulations; and

WHEREAS, the applicant also seeks an amendment to the Resolution to allow for the legalization of another mezzanine at the rear of the building; and

WHEREAS, since June 17, 1986, the Board has exercised jurisdiction over the premises under the instant calendar number; and

WHEREAS, the record indicates that the premises has been continuously occupied as a commercial woodworking and cabinetry shop since June 17, 1986; and

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, reopens and amends the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, extends the term of the Variance which expired on June 17, 2001, so that as amended this portion of the resolution shall read:

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

(DOB Application #401390990)

Adopted by the Board of Standards and Appeals, October 28, 2003.

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## 84-03-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Nissan Perla

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 35-40 30<sup>th</sup> Street, a/k/a 35-37 29<sup>th</sup>

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# MINUTES

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Street, frontage on West side of 30th Street, east side of 29<sup>th</sup> Street, between 35<sup>th</sup> and 36<sup>th</sup> Avenues, Block 341, Lot 6, Borough of Queens.

**COMMUNITY BOARD #1Q**

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Application withdrawn.

**THE VOTE TO WITHDRAW** -

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

Adopted by the Board of Standards and Appeals, October 28, 2003.

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**931-57-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Ziya Ercan, owner; Time Service Station, Inc., lessee.

SUBJECT - Application June 13, 2003 - reopening for an extension of term of variance which expires May 9, 2004 and for an amendment to the resolution.

PREMISES AFFECTED - 535 Vanderbilt Avenue, a/k/a 1047 Van Duzer Street, northeast corner of Vanderbilt Avenue and Van Duzer Street, Block 650, Lot 30, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: Carl A. Sulfaro.

**ACTION OF THE BOARD** - Laid over to January 13, 2004, at 10 A.M., for continued hearing.

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**444-67-BZ**

APPLICANT - Eric Palatnik, P.C., for Hillside 188th Street Corp,

**1255-80-BZ**

APPLICANT - Gerald J. Caliendo, R.A., for Constantine Plagakis, owner.

SUBJECT - Application May 30, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 2, 2001.

PREMISES AFFECTED - 35-33 31<sup>st</sup> Street, east side of 31<sup>st</sup> Street, 217.71' North of 36<sup>th</sup> Avenue, Block 604, Lot 10, Borough of Queens.

**COMMUNITY BOARD #1Q**

APPEARANCES -

For Applicant: Gerald J. Caliendo.

For Opposition: Angel Hernandez, Jamie Jimenez and Maria C. Tripopi.

**ACTION OF THE BOARD** - Laid over to December 16, 2003, at 10 A.M., for continued hearing.

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**370-82-BZ**

APPLICANT - Walter T. Gorman, P.E., for Douglaston Plaza Shopping Center, LLC, owner.

SUBJECT - Application August 21, 2003 - reopening for an

owner; BP Products North America, owner.

SUBJECT - Application June 3, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 187-39 Hillside Avenue, northwest corner of 87-88 to 87-96 188th Street, Block 9960, Lot 1, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to November 25, 2003, at 10 A.M., for continued hearing.

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**785-67-BZ**

APPLICANT - Eric Palatnik, P.C., for Park Circle Realty Associates, owner; BP Products North America, lessee.

SUBJECT - Application August 18, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired July 18, 2001.

PREMISES AFFECTED - 577/89 Marcy Avenue, southeast corner of Marcy Avenue and Myrtle Avenue, Brooklyn.

**COMMUNITY BOARD #4BK**

APPEARANCES -

For Applicant: Eric Palatnik.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to December 9, 2003, at 10 A.M., for decision, hearing closed.

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extension of time which expired October 16, 2003.

PREMISES AFFECTED - 242-02 61st Avenue, southwest corner of 245th Place, Block 8286, Lot 185, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES -

For Applicant: John Ronan.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to November 18, 2003, at 10 A.M., for decision, hearing closed.

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**515-89-BZ**

APPLICANT - Sheldon Lobel, P.C., for 50 East 78th Street, L.P., owner.

SUBJECT - Application August 23, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time which expired October 16, 1998.

PREMISES AFFECTED - 50 East 78th Street, 78th Street

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# MINUTES

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between Madison and Park Avenues, Block 1392, Lot 47, Borough of Manhattan.

## COMMUNITY BOARD #8M

### APPEARANCES -

For Applicant: Jordan Most.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to November 18, 2003, at 10 A.M., for decision, hearing closed.

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## 235-01-BZ

APPLICANT - Rothkrug & Rothkrug for Mermaid Commons, LLC, owner; Coney Island Memorial Chapel, Inc., lessee.

SUBJECT - Application July 10, 2001 - reopening for a rehearing for reconsideration.

PREMISES AFFECTED - 2009 Mermaid Avenue, a/k/a 2879 West 21<sup>st</sup> Street, a/k/a 2882 West 20<sup>th</sup> Street, northwest corner of West 20<sup>th</sup> Street and Mermaid Avenue, Block 7018, Lot 42 (Tentatively), Borough of Brooklyn.

## COMMUNITY BOARD #13BK

### APPEARANCES -

For Applicant: Adam Rothkrug, William Ortega, Giovanni Carlo and Chu Seto..

For Opposition: Adele Cohen, Ivana Wong and Yun Zhi Lio.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Commissioner Caliendo and

## 212-03-A

APPLICANT - Tai Lawal Calibre Building Services, Inc., for Nabat Development Corp., owner.

SUBJECT - Application June 20, 2003 - Proposed single family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General Law.

PREMISES AFFECTED - 129-32 Hook Creek Boulevard, east side, between 129<sup>th</sup> Road and 130<sup>th</sup> Avenue, Block 12891, Lot 2, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES -

For Applicant: Michael Kaye.

**ACTION OF THE BOARD** - Appeal granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

### THE RESOLUTION-

WHEREAS, the decision of the Queens Borough Commissioner, dated June 20, 2003 acting on NB. Application No. 401623711, reads in pertinent part:

" 1. Comply with Section 35 G.C.L. partly in the bed of a mapped street

Respectfully request waiver of above objection

Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to November 18, 2003, at 10 A.M., for decision, hearing closed.

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## 2-02-BZ

APPLICANT - Sheldon Lobel, P.C., for City of New York c/o NYC Economic Development Corp., owner; Bronx Preparatory Charter School, lessee.

SUBJECT - Application September 15, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 3872 Third Avenue, a/k/a 532 East 172nd Street, southeast corner of Third Avenue and East 172nd Street, Block 2929, Lot 8, Borough of The Bronx.

## COMMUNITY BOARD #3BX

### APPEARANCES -

For Applicant: Irving Minkin.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to November 25, 2003, at 10 A.M., for decision, hearing closed.

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Respectfully request approval of application."

WHEREAS, by letter dated June 27, 2003, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, by letter dated September 2, 2003, the Department of Environmental Protection has indicated that they have no objections to the above project; and

WHEREAS, by letter dated October 7, 2003, the Department of Transportation has reviewed the above project and has requested that as a condition of the approval, the portion of both Lots 2 & 4 extending into the bed of Hook Creek Boulevard remain unbuilt 40-feet west of the existing curb cut line of Hook Creek Boulevard to accommodate the reconstruction of the existing 30-foot roadway and 10 feet for the necessary sidewalks; and

WHEREAS, by letter dated October 22, 2003 the applicant has agreed to DOT's request and revised their site plans; and

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

Resolved, that the decision of the Queens Borough Commissioner, dated June 20, 2003, acting on NB. Application No. 401623711, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received October 28, 2003"-(1) sheet; and

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that the proposal comply with all applicable R2 zoning district requirements and all other applicable laws, rules, and regulations; and on further condition

THAT the portion of Lot 2 & 4 shall remain unbuilt 40-feet west of the existing curb cut line of Hook Creek Boulevard to accommodate the reconstruction of the existing 30-foot roadway and 10 feet for the necessary sidewalks;

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

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

THAT 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 on October 28, 2003.

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## 213-03-A

WHEREAS, by letter dated September 2, 2003, the Department of Environmental Protection has indicated they have no objections to the above project; and

WHEREAS, by letter dated October 7, 2003, the Department of Transportation has reviewed the above project and has requested that as a condition of the approval, the portion of both Lots 2 & 4 extending into the bed of Hook Creek Boulevard remain unbuilt 40-feet west of the existing curb cut line of Hook Creek Boulevard to accommodate the reconstruction of the existing 30-foot roadway and 10 feet for the necessary sidewalks; and

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

Resolved, that the decision of the Queens Borough Commissioner, dated June 20, 2003, acting on NB. Application No. 401623711, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received October 28, 2003"-(1) sheet; and that the proposal comply with all applicable R2 zoning district requirements and all other applicable laws, rules, and regulations; and on further condition

THAT the portion of Lot 2 & 4 shall remain unbuilt 40-feet west of the existing curb cut line of Hook Creek Boulevard to accommodate the reconstruction of the existing 30-foot roadway and 10 feet for the necessary sidewalks;

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

APPLICANT - Tai Lawal Calibre Building Services, Inc., for Nabat Development Corp., owner.

SUBJECT - Application June 20, 2003 - Proposed single family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General Law.

PREMISES AFFECTED - 129-36 Hook Creek Boulevard, east side, between 129<sup>th</sup> Road and 130<sup>th</sup> Avenue, Block 12891, Lot 4, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Michael Kaye.

**ACTION OF THE BOARD** - Appeal granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Commissioner Caliendo and

Commissioner Miele.....3

Negative: .....0

Absent: Vice-Chair Babbar .....1

**THE RESOLUTION** -

WHEREAS, the decision of the Queens Borough Commissioner, dated June 20, 2003 acting on NB. Application No. 401623169, reads in pertinent part:

" 1. Comply with Section 35 G.C.L. partly in the bed of a mapped street

Respectfully request waiver of above objection

Respectfully request approval of application."

WHEREAS, by letter dated June 27, 2003, the Fire Department has reviewed the above project and has no objections; and

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

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 on October 28, 2003.

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## 247-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Bruce Hannaway, lessee.

SUBJECT - Application July 30, 2003 - Proposed alteration and enlargement of an existing single family residence, not fronting on a legally mapped street, is a contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 18 Gotham Walk, west side, 226.99' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

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**ACTION OF THE BOARD** - Appeal granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Commissioner Caliendo and  
Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**THE RESOLUTION** -

WHEREAS, the decision of the Queens Borough Commissioner, dated July 28, 2003, acting on ALT 1. Application No. 401684879, reads in pertinent part:

"A1- The street giving access to the existing dwelling to be altered is not duly placed on the official map of the City of New York, Therefore:

- A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law
- B) Existing dwelling to be altered does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section 27-291 of the Administrative Code of the City of New York."; and

WHEREAS, by letter dated August 15, 2003, the Fire Department has reviewed the above project and has no objections; and

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

Adopted by the Board of Standards and Appeals on October 28, 2003

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## 292-03-A

**APPLICANT** - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Karen Carey & George Zandalasini, lessees.  
**SUBJECT** - Application September 5, 2003 - Proposed alteration and enlargement, to single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

**PREMISES AFFECTED** - 919 Bayside Walk, 716.86' north of Beach 209th Street, Block 16350, Lot 300, Borough of Queens.

### **COMMUNITY BOARD #14Q**

**APPEARANCES** -

For Applicant: Gary Lenhart.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chairman Chin, Commissioner Caliendo and  
Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to November 18, 2003, at 10 A.M., for decision, hearing closed.

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## 293-03-A

**APPLICANT** - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Lorraine & William Baker, lessees.  
**SUBJECT** - Application September 5, 2003 - Proposed alteration and enlargement, to single family dwelling, not fronting on a legally

Resolved, that the decision of the Queens Borough Commissioner, dated July 28, 2003, acting on ALT 1. Application No. 401684879 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received July 30, 2003"- (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements and all other applicable laws, rules, and regulations; and on further condition

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

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

THAT 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.

mapped street, is contrary to Section 36, Article 3 of the General City Law.

**PREMISES AFFECTED** - 928 Bayside Walk, 457.43' north of Beach 209th Street, Block 16350, Lot 300, Borough of Queens.

### **COMMUNITY BOARD #14Q**

**APPEARANCES** -

For Applicant: Gary Lenhart.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chairman Chin, Commissioner Caliendo and  
Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to November 18, 2003, at 10 A.M., for decision, hearing closed.

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*Pasquale Pacifico, Executive Director.*

Adjourned: 10:55 A.M.

**REGULAR MEETING**  
**TUESDAY AFTERNOON, OCTOBER 28, 2003**  
**2:00 P.M.**

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

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## ZONING CALENDAR

**281-02-BZ**

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APPLICANT - Harold Weinberg, P.E., for Jacob Farhi, owner.  
SUBJECT - Application October 18, 2002- under Z.R. §73-622 to permit the legalization of an enlargement at the rear of an existing one family residence, Use Group 1, located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, also side and rear yards, and is contrary to Z.R. §23-141, §54-31, §23-47 and §23-461.

PREMISES AFFECTED - 18 Exeter Street, east side, 126'-4½" south of Oriental Boulevard, north of Hampton Avenue, Block 8730, Lot 53, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Harold Weinberg.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3

Negative: .....0

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

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the legalization of an enlargement at the rear of an existing one-family residence, Use Group 1, located in an R3-1 zoning district which does not comply with the zoning requirements for floor area ratio, side and rear yards contrary to Z.R. §§23-141, 54-31, 23-47, and 23-461; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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

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

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the legalization of an enlargement at the rear of an existing one-family residence, Use Group 1, located in an R3-1 zoning district which does not comply with the zoning requirements for floor area ratio, side and rear yards contrary to Z.R. §§ 23-141, 54-31, 23-47, and 23-461, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received May 9, 2003"-(12) sheets and "September 30, 2003"-(1) sheet; and on further condition;

THAT there shall be no habitable room in the cellar;

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

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

THAT the above conditions shall appear on the certificate of

Absent: Vice-Chair Babbar .....1

THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner, dated October 15, 2002, acting on Application No. ALT 301420996 reads:

"BOARD OF STANDARDS AND APPEALS DENIAL

1. INCREASES THE DEGREE OF NON-COMPLIANCE WITH RESPECT TO FLOOR AREA RATIO AND IS CONTRARY TO SECTIONS 23-141& 54-31;

2. CREATES A NEW NON-COMPLIANCE WITH RESPECT TO REAR YARD AND IS CONTRARY TO SECTION 23-47 ZR;

3. INCREASES THE DEGREE OF NON-COMPLIANCE WITH RESPECT TO SIDE YARD AND IS CONTRARY TO SECTIONS 23-461 AND 54-31"; and

WHEREAS, a public hearing was held on this application on August 5, 2003 and then laid over to September 16, 2003, October 7, 2003 and then to October 28, 2003 for decision; and 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;

THAT substantial construction be completed and a new Certificate of Occupancy be obtained within four (4) years of this grant.

Adopted by the Board of Standards and Appeals, October 28, 2003.

**315-02-BZ**

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for 225-227 West 60th Street, LLC, owner.

SUBJECT - Application October 25, 2002- under Z.R. §72-21 to permit the proposed construction of a mixed-use building, containing college facilities and apartments, Use Groups 2 and 3, located in an R8 zoning district, which does not comply with the zoning requirements for floor area ratio, number of dwelling units, setback, rear setback, sky exposure plane and lot coverage, is contrary to Z.R. §23-142, §24-11, §24-20, §24-16, §24-33 and §24-522.

PREMISES AFFECTED - 223/27 West 60<sup>th</sup> Street, north side, between Amsterdam and West End Avenues, Block 1152, Lot 17, Borough of Manhattan.

**COMMUNITY BOARD #7M**

APPEARANCES -

For Applicant: Howard Weiss.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO REOPEN HEARING** -

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3

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Negative: .....0  
 Absent: Vice-Chair Babbar .....1  
**THE VOTE TO CLOSE HEARING -**  
 Affirmative: Chairman Chin, Commissioner Caliendo and  
 Commissioner Miele.....3  
 Negative: .....0  
 Absent: Vice-Chair Babbar .....1  
**THE VOTE TO GRANT -**  
 Affirmative: Chairman Chin, Commissioner Caliendo and  
 Commissioner Miele.....3  
 Negative: .....0  
 Absent: Vice-Chair Babbar .....1  
**THE RESOLUTION-**

WHEREAS, a public hearing was held on this application on May 20, 2003, after due publication in The City Record, laid over to June 24, 2003, July 22, 2003, August 12, 2003, September 16, 2003, October 7, 2003 and then to October 28, 2003 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 Joel Miele and Commissioner Peter Caliendo; and

WHEREAS, this is an application to permit, in an R8 zoning district, the proposed construction of a 18-story building with community facility space in the cellar, basement, ground floor, second and third floors, and residential apartments on floors four through eighteen, which creates non-compliance with respect to the provisions of Zoning Resolution §§23-142, 24-11, 24-16, 24-20, 24-522 and 24-552; and

WHEREAS, the project site is located at 225-227 West 60th Street, between Amsterdam and West End Avenues, in an R8 (Residential) zoning district; and

WHEREAS, the project site consists of three adjacent lots that form a single zoning lot (hereinafter referred to collectively as the "Subject Lot" or the "Zoning Lot") with the total frontage along West 60th Street measuring 125 feet and with a depth of 100.416 feet, yielding a total lot area of 12,552 square feet; and

WHEREAS, the Subject Lot is improved with two buildings which were combined for use as a single building (the "Building"); one of the buildings, which consists of three stories, was constructed in the late 1800's and the second building, a four-story structure, was erected in 1952; and

WHEREAS, the applicant represents that until February 2002, the Building was occupied by EMSIG Manufacturing Corporation, which operated a button factory with accessory offices and storage, however, the manufacturing use is not permitted in the R8 district as a matter of right, and it is presumed that such occupancy constituted a legal non-conforming use of the Building under the provisions of Article V of the Zoning Resolution; and

WHEREAS, the record indicates that the Subject Lot is flanked by Public School I91 and a school playground to the east; two public parking lots to the north; a parking lot and repair garage for taxis to the west; and directly across the street, a 33-story apartment tower, and to its south, a two-story building operated by the Department of Parks and Recreation with an adjacent outdoor pool; and

WHEREAS, the decision of the Borough Commissioner, dated October 22, 2002, acting on Application No.103273208, reads in pertinent part:

- "Sect 23-142 Increase residential FAR 6.02 to 8.62 reduce open space from 8,085 to 5,817 sq. ft.
- Sect 24-11 Increase community facility and total FAR from 6.50 to 10.89 increase from 65% to 70.12%
- Sect 24-20, 24-16 I[n]crease dwelling units from 71 to 101
- Sect 24-522 Reduce setback from 20 ft. to 14 ft. waive sky exposure plane
- Sect 24-552 Waive rear setback of 20 feet above 125 ft."; and

WHEREAS, the applicant proposes to erect a mixed-use building consisting of community facility space in the cellar, basement, first, second and third floors, and residential apartments on the upper floors; and

WHEREAS, separate entrances and lobbies will be provided for the community facility and residential uses; and

WHEREAS, the applicant represents that while the existing building may have served the needs of the prior owner in the operation of its button manufacturing business, the Building is not viable in its present form for another factory use because the Building, as a non-conforming factory, is functionally obsolete, with conditions such as undersized loading docks and a maze-like floor plan, and cannot be reasonably adapted for the continuation of a non-conforming manufacturing use or conforming residential use; and

WHEREAS, the applicant has provided evidence of topographical conditions, such as a combination of above ground contaminants including asbestos containing materials, above ground storage tanks, hazardous waste, lead-based paint, pollution control residues, as well as below ground contaminants such as fuel oil substances which are specific to the old manufacturing building, all of which are peculiar to and inherent in the Zoning Lot; and that create practical difficulties and unnecessary hardship in developing the site with a conforming use; and

WHEREAS, the record also indicates the existence of subsurface broken, fractured, and seamy rock which will require channel drilling around the perimeter of the subject site and to minimize the amount of rock overbreak extending beyond the property limits, an extensive network of steel rock bolts will be needed on all four sides of the excavation to secure potentially unstable rock blocks or rock wedges; also steel straps and strongbacks will be needed to "knit" together extremely fractured zones, and pockets of highly weathered rock may be encountered in the sidewalls of the excavation and below the rock surface, which will require removal and replacement with concrete; and

WHEREAS, the applicant has also provided documentation which indicates that there is bedrock unusually close to the surface of the site as well as an extreme downward slope of the Subject Lot from east to west along West 60th Street varying 9 feet over a 125 foot frontage, or about 7%; and

WHEREAS, the applicant represents that that these conditions combine to make the development of a new building significantly more costly; and

WHEREAS, the existing obsolete, non-conforming

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manufacturing building combined with topographical subsurface conditions such as soil contamination, a bedrock condition, the existence of broken, fractured, and seamy rock and an unusually steep grade on a zoning lot, constitute unique physical conditions inherent in the Subject Lot creating practical difficulties or unnecessary hardship so as to satisfy the finding required by

WHEREAS, the financial report analyzed a conforming residential/community facility development as well as a conforming residential/medical office development, and found that in both cases the as-of-right use of the property would result in a capital loss and provide no return on investment; and

WHEREAS, the Board finds that evidence in the record, including the financial analysis, demonstrate that developing the site with a conforming use would not yield a reasonable return; and

WHEREAS, the applicant contends that the proposed building would not alter the essential character of the neighborhood or district in which the Zoning Lot is located, would not impair the appropriate use and development of adjacent property, would not be detrimental to the public welfare, and would, in fact, provide a benefit to the neighborhood as a whole; and

WHEREAS, the applicant represents the proposed uses of the building are permitted as-of-right in the R8 District and consistent with the development of the surrounding area; and

WHEREAS, the applicant states that, in addition, the proposed building is in keeping with the scale of nearby buildings, including the two residential towers which are 33-stories and 35-stories high, which are located across the street from the subject zoning lot on West 60th Street, as well as other residential buildings of similar height, on nearby blocks; and

WHEREAS, in response to community based concerns and at the request of the Board, the applicant has reduced the size and scale of the project-the proposed FAR has been reduced from 10.89 to 10.0, the total floor area has been reduced from 136,732 square feet to 125,520 square feet, the number of dwelling units has been reduced from 101 to 95, the extent of the sky exposure plane encroachment has been reduced by the elimination of the 19th floor, the rear yard obstruction noncompliance has been eliminated, and the height of the building has been reduced from 207.50 feet to 195.33 feet; and

WHEREAS, therefore, 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 the Final Environmental Assessment Statement 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.

§72-21 (a) of the Zoning Resolution; and

WHEREAS, a detailed financial analysis has been provided to the Board demonstrating that because of such physical conditions there is no reasonable possibility that the development of the Zoning Lot in strict conformity with the provisions of the Zoning Resolution will bring a reasonable return; 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, to permit, in an R8 zoning district, the proposed construction of a 18-story building with community facility space in the cellar, basement, ground floor, second and third floors, and residential apartments on floors four through eighteen, which creates non-compliance with respect to the provisions of Zoning Resolution §§23-142, 24-11, 24-16, 24-20, 24- 522 and 24-552, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 1, 2003"-(12) sheets and "October 24, 2003"-(3) sheets; and on further condition:

THAT the premises shall comply with all applicable fire safety measures;

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

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

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

THAT the above conditions shall be noted 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; 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, October 28, 2003.

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## 105-03-BZ thru 107-03-BZ

APPLICANT - Joseph P. Morsellino, for Joseph Parisano, owner.  
SUBJECT - Application April 4, 2003 - under Z.R. §72-21 to permit the proposed erection and maintenance of a three family dwelling, Use Group 2, located in an R4 zoning district, which does not qualify for development under the Predominantly Built Up Regulations, regarding shape of lot and size of block, is contrary to Z.R. §23-141(c).

PREMISES AFFECTED -

45-78 161st Street, north of 46th Avenue, Block 5439, Lot 88, Borough of Queens.

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45-78A 161st Street, north of 46th Avenue, Block 5439, Lot 89,  
Borough of Queens.

45-80 161st Street, north of 46th Avenue, Block 5439, Lot 90,  
Borough of Queens

## COMMUNITY BOARD #7Q

### APPEARANCES -

Applicant: Joseph P. Morsellino.

**ACTION OF THE BOARD** - Applications granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Caliendo and

Commissioner Miele.....3

Negative: .....0

Absent: Vice-Chair Babbar .....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 13, 2003, acting on NB Application No. 401560146, reads:

"1. PROPOSED DEVELOPMENT DOES NOT COMPLY WITH SECTION 23-141B OF THE ZONING RESOLUTION. MAXIMUM PERMITTED FLOOR AREA AND FAR FOR AN R4 ZONING DISTRICT ARE EXCEEDED.

2. THE MAXIMUM PERMITTED NUMBER OF DWELLING UNITS IS EXCEEDED. PROPOSED NUMBER OF DWELLING UNITS DOES NOT COMPLY WITH SECTION 23-22, FACTOR FOR DETERMINING MAXIMUM NUMBER OF DWELLING UNITS FOR AN R4.

REFER TO BOARD OF STANDARDS AND APPEALS."; and

WHEREAS, a public hearing was held on this application on October 7, 2003 after due notice by publication in The City Record, and then laid over to October 28, 2003 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., and Commissioner Peter Caliendo and Commissioner Joel Miele P.E.; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R4 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which does not qualify for development under the regulations applicable to predominantly built up areas, regarding shape of lot and size of block, contrary to Z.R. §23-141(c); and

Resolved that the Board of Standards and Appeals issues a Type II Determination 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 objections cited, under Z.R. §72-21, to permit, in an R4 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which does not qualify for development under the predominantly built up area regulations, regarding shape of lot and size of block contrary to Z.R. §23-141(c); on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 4, 2003"- (4) sheets and

WHEREAS, the subject zoning lot is an irregularly shaped parcel located in a predominantly built up area, where more than half of the dwellings are three family dwellings; and

WHEREAS, however, the record indicates that the subject site is not eligible for development under the predominantly built up area regulations because the block is 4.13 acres, which is .13 of an acre over the 4 acres permitted under the definition of predominantly built up area as set forth at Z.R. § 12-10; and

WHEREAS, the site is also directly across the street from a non-conforming commercial development, which the applicant represents impacts on residential development; and

WHEREAS, moreover, the rear of the site is irregularly shaped and precludes the development of complying R4 dwellings; and

WHEREAS, the aforementioned unique physical conditions, namely the site's irregular shape, its location across from a non-conforming commercial use and its location adjacent to and near three-family dwellings makes its occupancy for a complying R4 development impractical and creates practical difficulties in developing the site in conformity with current zoning; and

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

WHEREAS, upon site inspection, the Board has noted that the applicant's proposal is contextually compatible with the surrounding homes and neighborhood; and

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

WHEREAS, the 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 Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement 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.

"July 2, 2003"- (4) sheets, and on further condition:

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

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

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

THAT the above conditions shall be noted 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

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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, October 28, 2003.

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## 144-03-BZ

APPLICANT - H. Irving Sigman, for Ching Kuo Chiang, owner.  
SUBJECT - Application May 8, 2003 - under Z.R. § 72-21 to permit the proposed development of a two story building on vacant land, for stores, Use Group 6, on the first floor with accessory storage in the cellar, two dwelling units, Use Group 2, on the second floor, and open accessory parking, located in an R3-2 zoning district, is contrary to Z.R. §§22-00 and 23-00.

PREMISES AFFECTED - 188-16 Northern Boulevard, southwest corner of 189th Street, Block 5510, Lot 38, Borough of Queens.

## COMMUNITY BOARD #11Q

### APPEARANCES -

For Applicant: H. Irving Sigman and James Rodgers.

**ACTION OF THE BOARD** - Application granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Caliendo and

Commissioner Miele.....3

Negative: .....0

Absent: Vice-Chair Babbar .....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 27, 2003, acting on Application No. 401604019 reads:

"1.The use of the premises for stores (Use Group 6) on the first floor with accessory storage in the cellar and open accessory parking and two dwelling units (Use Group 2) in an R3-2 zoning district is contrary to Sections #22-00 and #23-00 of the Zoning Resolution.

2. The proposed FAR, lot coverage and open space are contrary to Sec. 23-141 ZR.

WHEREAS, the current proposal is to develop the lot with a two-story and cellar building, containing four retail stores, Use Group 6, on the first floor, and two dwelling units on the second floor; and

WHEREAS, the cellar will be used for accessory storage for the stores, and the open area at grade will provide accessory parking for 16 cars; and

WHEREAS, the history of development of the lot and the previous Board approval demonstrate that the lot has a unique condition giving rise to an unnecessary hardship in developing it with a conforming use; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a conforming development would not yield a reasonable return; and

WHEREAS, the record indicates that Northern Boulevard is developed predominantly with commercial uses; and

3. The proposed number of dwelling units is contrary to Sec. 23-22 ZR and Sec. 23-24 ZR.

4. The proposed front yards are contrary to Sec. 23-45 ZR.

5. The proposed height of the front and west side perimeter walls and required setbacks are contrary to Sec. 23-631(b)."; and

WHEREAS, a public hearing was held on this application on October 7, 2003 after due notice by publication in The City Record, and laid over to October 28, 2003 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 Chairman Satish Babbar, Commissioner Joel Miele, and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, to permit, in an R3-2 zoning district, the construction of a two-story building with accessory storage in the cellar level, retail stores (Use Group 6) on the first floor, two residential units (Use Group 2) on the second floor and open accessory parking, which is contrary to Z.R. §§22-00, 23-00, 23-141, 23-22, 23-24, 23-45 and 23-631; and

WHEREAS, the subject site is located on an irregularly shaped lot measuring 80 by 104.52 feet, situated on the southwest corner of the intersection of Northern Boulevard and 189th Street; and

WHEREAS, on August 18, 1949, Certificate of Occupancy No. 57526 was issued to the premises for the sale and display of used cars, which became a non-conforming use in 1961 when the property was rezoned to R3-2; and

WHEREAS, on May 24, 1977 under Calendar No. 14-77-A, the Board revoked this certificate of occupancy upon application by the Department of Buildings finding that the site contained a non-conforming use of "land with minor improvements" that was required to be discontinued within three years of the enactment of the 1961 Zoning Resolution; and

WHEREAS, on August 1, 1995, under Calendar No. 195-94-BZ, the Board granted a variance on the subject zoning lot to permit the construction of a one-story retail commercial building (Use Group 6) without a cellar and with an accessory parking lot for eight cars; and

WHEREAS, the applicant represents that the building proposed under Calendar No. 195-94-BZ was never developed as the owner at the time was unable to obtain tenants; and

WHEREAS, the Board notes the proposed dwelling units are an as-of-right use; and

WHEREAS, therefore, 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 the Final Environmental Assessment Statement and has carefully considered all relevant

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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, limited to the objections cited, to permit, in an R3-2 zoning district, the construction of a two-story building with accessory storage in the cellar level, retail stores (Use Group 6) on the first floor, two residential units (Use Group 2) on the second floor and open accessory parking, which is contrary to Z.R. §§ 22-00, 23-00, 23-141, 23-22, 23-24, 23-45 and 23-631, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 10, 2003"- (10) sheets; and on further condition;

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

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

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

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT buffering at the side of the subject property abutting the two story, one family dwelling on the adjacent lot, in the form of Evergreen or similar trees, shall be provided and maintained in accordance with BSA approved plans;

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

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

"THE PROPOSED RESIDENTIAL USE (USE GROUP 2) @ 2ND, 3RD, 4TH, 5TH PENTHOUSE FLOORS AND NEW ENLARGEMENT OF HOUSE PENTHOUSE IS CONTRARY TO SEC 42-00 (ZR) IN THAT RESIDENTIAL (USE GROUP 2) IS NOT PERMITTED AS OF RIGHT IN AN M1-6 ZONING DISTRICT."; and

WHEREAS, a public hearing was held on this application on September 30, 2003 after due notice by publication in The City Record, and laid over to October 28, 2003 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 Chairman Satish Babbar, Commissioner Joel Miele, and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-6 zoning district, the proposed conversion of the remaining two units on the second and third floors, as well as the addition of two floors and a penthouse for residential use, in an existing small three-story and basement loft building, which is contrary to Z.R. §42-00; and

WHEREAS, the subject site has a frontage of 43 feet along the north side of West 28th Street between 6th and 7th Avenues

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, October 28, 2003.

## 148-03-BZ

APPLICANT - Francis R. Angelino, Esq., for North West Real Estate, LLC, owner.

SUBJECT - Application May 12, 2003- under Z.R. §72-21 to permit the proposed conversion of the remaining two units on the second and third floors, and the addition of two floor and a penthouse for residential use, in an existing small basement and three-story loft building, located in an M1-6 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 111/13 West 28<sup>th</sup> Street, between Sixth and Seventh Avenues, 164'-4" west of Sixth Avenue, Block 804, Lots 1101-1105 (formerly 28 and 29), Borough of Manhattan.

## COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: David Sinclair.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Commissioner Caliendo and

Commissioner Miele.....3

Negative: .....0

Absent: Vice-Chair Babbar .....1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated April 24, 2003, acting on Application No. 103390910 reads:

and is improved with a basement and three-story loft building; and

WHEREAS, the record indicates that the site was originally developed with two residential buildings, which were later combined into one building and converted to commercial use, and residential use was later re-established on the upper floors, with the residential units being designated as Interim Multiple Dwellings ("IMD") by the New York City Loft Board; and

WHEREAS, the applicant represents that the history of development of the site has resulted in a wood and masonry building with a non-fireproof structure that is burdened with light floor loads, a lack of elevator service, small floor sizes, low ceiling heights, small stairways, and a lack of loading areas; and

WHEREAS, the applicant represents that the current building is functionally obsolete and that the development of a conforming use on site would yield unnecessary hardship;

WHEREAS, the Board finds that the aforementioned unique physical conditions create an unnecessary hardship in developing the site in conformity with the current zoning regulations; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a conforming development would not yield a reasonable return; and

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WHEREAS, the evidence in the record shows that many of the buildings neighboring the subject site have been converted to residential use, including multiple dwellings directly to the south and the north, and IMD buildings directly to the east, and that many buildings on the subject block are mixed use; and

WHEREAS, the applicant represents that the amount of proposed residential units, and the retention of conforming commercial uses on the first floor and in the basement, lead to only minimal impact on the neighborhood; and

WHEREAS, therefore, 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 the Final Environmental Assessment Statement 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

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, October 28, 2003.

**178-03-BZ**

APPLICANT - Eric Palatnik, P.C., for King Carmichael, owner; BP Products North America, lessee.

SUBJECT - Application May 23, 2003 - under Z.R. §73-211 to permit the continued use of the premises as an automotive service station, Use Group 16, also a modification to the existing signage, located in a C2-2 within an R3-2 zoning district, which is contrary to Z.R. §32-35.

PREMISES AFFECTED - 114-02 Van Wyck Expressway, southwest corner of Linden Boulevard, Block 11661, Lot 7, Borough of Queens.

**COMMUNITY BOARD #10Q**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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 objections cited to permit, in an M1-6 zoning district, the proposed conversion of the remaining two units on the second and third floors, as well as the addition of two floors and a penthouse for residential use, in an existing small three story and basement loft building, which is contrary to Z.R. §42-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 12, 2003-(15) sheets; and on further condition;

THAT all livable rooms fronting West 28th Street shall be provided with mechanical ventilation in addition to natural light and air provided by windows;

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

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

THAT the applicant shall comply with all applicable fire safety measures;

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

THAT the above conditions shall be noted 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;

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....	3
Negative: .....	0
Absent: Vice-Chair Babbar .....	1
THE VOTE TO CLOSE HEARING -	
Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....	3
Negative: .....	0
Absent: Vice-Chair Babbar .....	1
THE VOTE TO GRANT -	
Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....	3
Negative: .....	0
Absent: Vice-Chair Babbar .....	1
THE RESOLUTION -	

WHEREAS, the decision of the Borough Commissioner, dated May 19, 2003 acting on Application No. 401638885 reads:

“Proposed continuance of Gas Station use in C2-2 in R3-2 Zone is not in conformance with ZR Section 32-35 and therefore requires a Special Permit by BSA pursuant to ZR Section 73-211. In addition, application to seek changes to existing signage. Application must be referred to the Board of Standards and Appeals”; and

WHEREAS, a public hearing was held on this application on August 12, 2003 after due notice by publication in The City Record, and laid over to October 7, 2003 and then to October 28, 2003 for decision; and

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WHEREAS, Community Board No. 10 in Queens recommended approval of 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 Peter Caliendo and Commissioner Joel Miele P.E.; and

WHEREAS, this is an application for a special permit pursuant to Z.R. §§73-211 and 73-03, on a site previously the subject of applications before the Board, to permit in a C2-2/R5 zoning District, the legalization of an automotive service station use, as well as approval of modifications to existing signage; and

WHEREAS, on or around May 7, 1948, under Calendar Number 512-48-BZ, as amended and/or extended at various times, the Board approved a variance of the use district regulations applicable at the time to allow a gasoline service station on the subject lot; and

WHEREAS, on or around October 14, 1987, under Calendar Number 844-87-BZ, the Board granted a special permit for construction of, and the use of the subject lot as, a self-service gasoline station, for a term of ten (10) years; and

WHEREAS, the grant under Calendar Number 844-87-BZ included a Conditional Negative Declaration (the "1989 CND"), which contained various requirements to be satisfied, all related to

WHEREAS, the applicant further represents that there will be no lubrication, repair or washing of cars at the subject premises; and

WHEREAS, the applicant also proposes to install 66.25 square feet of illuminated signage; and

WHEREAS, the Board finds that the proposed signage modifications comply fully with Z.R. §73-211(5)(i), which allows a total surface area of 150 square feet of illuminated signage; and

WHEREAS, the Board finds that the existing screening at the subject premises complies with Z.R. §73-211(4); and

WHEREAS, the Board finds that the site is so designed as to provide reservoir space for five waiting automobiles within the zoning lot in addition to spaces available at the pumps; and

WHEREAS, the Board finds that the proposed use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; 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 Z.R. §§73-211 and 73-03.

Resolved that the Board of Standards and Appeals issues a Negative Declaration stipulated on the conditions noted below under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a special permit pursuant to Z.R. §§73-211 and 73-03, on a site previously before the Board, to permit in a C2-2/R3-2 zoning District, the legalization of an automotive service station use, as well as approval of modifications to existing signage, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked

the use of the premises as a gasoline service station; and

WHEREAS, the special permit granted under Calendar Number 844-87-BZ expired on December 5, 1999; and

WHEREAS, the applicant represents that the subject premises has been continuously utilized as a gasoline service station since December 5, 1999; and

WHEREAS, the record indicates that the instant application meets the requirements of Z.R. §73-211(a) because the subject lot's area is 8,917 square feet, and therefore complies with the requirement that the site contain a minimum lot area of 7,500 square feet; and

WHEREAS, Z.R. §73-211(b) limits the proposed use to 15,000 square feet for sites not located on an arterial highway or major street; and

WHEREAS, the subject site is located on Bussing Avenue and East 233rd Street, which the Board finds is a major intersection; and

WHEREAS, therefore, the Board finds that Z.R. §73-211(b) is not applicable to the subject application; and

WHEREAS, the Board has also determined that the entrances and exits are planned so that at maximum operation, vehicular traffic into or from the premises will cause a minimum obstruction on the streets or sidewalks; and

"Received September 26, 2003"- (5) sheets ; and on further condition;

THAT within six months from the date of this grant, the applicant shall:

- (1) Obtain NYC Department of Environmental Protection ("DEP") sign-off that the DEP-related requirements contained in the 1989 CND have been satisfied or that no further action is necessary, and submit proof of same to the Board;
- (2) Submit a revised letter and revised EAS to the BSA stating that there are five 4,000 gallon petroleum underground storage tanks (USTs) on the subject site;
- (3) Submit an affidavit filed with New York City Fire Department regarding the removal of the twelve 550 gallon USTs;
- (4) Provide a New York State Department of Environmental Conservation ("DEC") PBS Facility Information Report that reflects the removal of the twelve 550 gallon USTs. The current DEC Form reflects the closure of six 550 gallon USTs;
- (5) Conduct a second search with ("DEC") confirming if there were or were not, any petroleum spills on the subject site;

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

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

THAT landscaping be provided and maintained in accordance with BSA approved plans;

THAT there shall be no used car sales on the premises;

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

THAT the term of this special permit shall be limited to six (6) months from the date of this grant, expiring April 28, 2004, at which time a new application must be submitted;

THAT the above conditions shall appear on the Certificate of

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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, October 28, 2003.

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## 207-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Charles Herzka, owner.  
THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner dated June 16, 2003, acting on Application No. 301537460 reads:

1. Proposed floor area ratio exceeds allowable under ZR 23-141.
2. Proposed open space ratio exceeds allowable under ZR 23-141.
3. Proposed side yard less than required under ZR 23-461.
4. Proposed rear yard less than required under ZR 23-47"; and

WHEREAS, a public hearing was held on this application on October 7, 2003 and then laid over to October 28, 2003 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 Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, a special permit is sought under Z.R. §§73-03 and 73-622 to permit the enlargement of an existing one-family dwelling, Use Group 1, in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards, and rear yards, contrary to Z.R. §§23-141, 23-461 and 23-47; and

WHEREAS, the applicant represents that the overall design of the proposed house will remain similar to neighborhood conditions; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all

SUBJECT - Application June 19, 2003 - under Z.R. §73-622 to permit the proposed enlargement of a single family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, and side and rear yards, is contrary to §23-141, §23-461 and §23-47.

PREMISES AFFECTED - 2316 Avenue "J", south side, between East 23rd and East 24th Streets, Block 7605, Lot 47, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Commissioner Caliendo and

Commissioner Miele.....3

Negative: .....0

Absent: Vice-Chair Babbar .....1

applicable zoning regulations; and

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

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03 to permit the enlargement of an existing one-family dwelling, Use Group 1, in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards, and rear yards, contrary to Z.R. §§23-141, 23-461 and 23-47, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received June 19, 2003"-(5) sheets and October 14, 2003"-(1) sheet; and on further condition;

THAT there shall be no habitable room, or maid's room, in the cellar;

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

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

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

THAT the above conditions shall be noted 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 no waiver of administrative code requirements is granted in connection with cellar plumbing fixtures;

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.

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Adopted by the Board of Standards and Appeals, October 28, 2003.

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### 360-02-BZ

APPLICANT - Law offices of Howard Goldman, PLLC, for S & Y Enterprises, LLC, owner.

SUBJECT - Application December 13, 2002 - under Z.R. §72-21 to permit the proposed conversion and enlargement of an existing warehouse, into a residential building with 83 units and 41 parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 130 North Fourth Street, between

### 70-03-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Flatlands 84th Realty Corp., owner.

SUBJECT - Application February 13, 2003 - under Z.R. §72-21 to permit the reestablishment of an expired variance, previously granted under Cal. No. 29-68-BZ, which permitted a one story contractor's establishment, in an R-5 zoning district, also the legalization of a one story enlargement to the establishment, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 761 East 84th Street, east side, 89'-0" north of Flatlands Avenue, Block 8005, Lot 11, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Carl A. Sulfaro

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Commissioner Caliendo and

Commissioner Miele.....3

Negative: .....0

Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to November 25, 2003, at 1:30 P.M., for decision, hearing closed.

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### 77-03-BZ & 78-03-BZ

APPLICANT - Gerald J. Caliendo, R.A., A.I.A., for Better Luxury Homes, Inc., owner.

SUBJECT - Application March 3, 2003 - 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 comply with the zoning requirement for minimum rear yard, and is contrary to Z.R. §23-47.

PREMISES AFFECTED -

260-32 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 123, Borough of Queens.

260-34 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 120, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

Berry Street and Bedford Avenue, Block 2351, Lot 6, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Chris Wright.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Commissioner Caliendo and

Commissioner Miele.....3

Negative: .....0

Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to November 18, 2003, at 1:30 P.M., for decision, hearing closed.

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For Applicant: Gerald J. Caliendo.

For Opposition: Judith Brambrut, Richard Hellenbrecht, Andrea Marshak and Carla Sickle.

**ACTION OF THE BOARD** - Laid over to November 25, 2003, at 1:30 P.M., for continued hearing.

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### 85-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for 926 Bedford LLC, owner; Department of General Services, lessee.

SUBJECT - Application March 13, 2003 - under Z.R. 72-21 to permit the proposed combining of three tax lots into a single zoning and tax lot, and also the proposed construction of a two-story building, that will be used for the manufacturing (primary assembly) of materials handling equipment, located in an R6 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 922/26 Bedford Avenue, a/k/a 371 Willoughby Avenue, northwest corner, Block 1914, Lots 43, 44 and 46 (Tentative Lot 43), Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Adam W. Rothkrug and Tom McKnight.

**ACTION OF THE BOARD** - Laid over to December 9, 2003, at 1:30 P.M., for continued hearing.

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### 96-03-BZ

APPLICANT - Agusta & Ross, for Brucha Building Corp., owner.

SUBJECT - Application March 27, 2003 - under Z.R. §72-21 to permit the proposed erection of a five story, ten unit multiple dwelling, Use Group 2, upon a vacant shallow corner zoning lot, located in an M1-1 zoning district, which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 86 Franklin Avenue, a/k/a 450/52 Park Avenue, southwest corner, Block 1898, Lot 39, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

APPEARANCES -

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# MINUTES

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For Applicant: Mitchell Ross.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chairman Chin, Commissioner Caliendo and  
Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD -** Laid over to November 25, 2003, at 1:30 P.M., for decision, hearing closed

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**PREMISES AFFECTED -**

1685 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue,  
Block 5510, Lot 150, Borough of Brooklyn.  
1687 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue,  
Block 5510, Lot 149, Borough of Brooklyn.  
1689 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue,  
Block 5510, Lot 148, Borough of Brooklyn.  
1691 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue,  
Block 5510, Lot 147, Borough of Brooklyn.  
1693 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue,  
Block 5510, Lot 47, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

**APPEARANCES -**

For Applicant: Peter Geis and Howard Hornstein.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chairman Chin, Commissioner Caliendo and  
Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD -** Laid over to November 25, 2003, at 1:30 P.M., for decision, hearing closed

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**120-03-BZ**

**APPLICANT -** Mothiur Rahman, for Earth Properties & Construction Corp., owner.

**SUBJECT -** Application April 16, 2003- under Z.R. §72-21 to permit the legalization of an existing public parking lot, Use Group 8, located in an R-5 zoning district, which is contrary to Z.R. §22-00.

**PREMISES AFFECTED -** 1810 Loring Place, northeast corner of West Tremont Avenue, Block 2879, Lot 51, Borough of The Bronx.

**COMMUNITY BOARD #5BX**

**APPEARANCES -**

For Applicant: Mothiur Rahman.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chairman Chin, Commissioner Caliendo and  
Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD -** Laid over to November 25, 2003, at 1:30 P.M., for decision, hearing closed

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**111-03-BZ thru 115-03-BZ**

**APPLICANT -** Fischbein Badillo Wagner Harding, for 909 East 5th Street, LLC, owner.

**SUBJECT -** Application April 7, 2003 - under Z.R. §72-21 to permit the proposed three story, three family residential building, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, wall and building height, front yard and the parking requirements, is contrary to Z.R. §23-141, §23-631, §23-45 and §25-23.

**131-03-BZ & 132-03-A**

**APPLICANT -** The Agusta Group, for Dr. S.K. Bhat & Dr. Unnila Bhat, owner.

**SUBJECT -** Application April 18, 2003 - under Z.R. §72-11, 72-21 & 73-125 to permit the proposed conversion of the first floor and cellar of an existing one family dwelling, to medical offices, and also to add a two-story enlargement, to create space necessary for larger examination rooms, creates non-compliance with respect to side yard, floor area ratio, front yard, floor area and cellar space, which is contrary to §24-35, §24-34, §22-14 and §24-161; and proposed conversion of the first floor and cellar of an existing one family dwelling, of frame construction Class IIC, to medical offices (occupancy group E), is not permitted inside the Fire District as per Table 4-1, Section 27-302 of the NYC Building Code.

**PREMISES AFFECTED -** 80-03 192nd Street, southeast corner of Union Turnpike, Block 7269, Lot 1, Borough of Queens.

**COMMUNITY BOARD #1Q**

**APPEARANCES -**

For Applicant: Philip P. Agusta.

For Opposition: Bob Harris.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chairman Chin, Commissioner Caliendo and  
Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD -** Laid over to December 23, 2003, at 1:30 P.M., for decision, hearing closed.

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**138-03-BZ**

**APPLICANT -** Agusta & Ross, for C & M Service Center, owner.

**SUBJECT -** Application June 19, 2003 - under Z.R. §§11-412 & 11-413 to permit the proposed modification and enlargement of a former gasoline service station, to reflect, the elimination of the gasoline sales and to permit a compensating enlargement to facilitate an accessory store, larger repair bays and auto sales, is contrary to Z.R. §32-10.

**PREMISES AFFECTED -** 79-59/77 Cooper Avenue, north side, at the corner of 69<sup>th</sup> Road, Block 3801, Lot 35, Borough of Queens.

**COMMUNITY BOARD #5Q**

**APPEARANCES -**

For Applicant: Mitchell Ross.

**THE VOTE TO CLOSE HEARING -**

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# MINUTES

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Affirmative: Chairman Chin, Commissioner Caliendo and  
Commissioner Miele.....3  
Negative: .....0  
Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to November 25, 2003, at 1:30 P.M., for decision, hearing closed.

**SUBJECT** - Application May 1, 2003 - under Z.R. §§11-412 & 11-413

to permit the proposed auto repair shop, Use Group 16, located in a C2-2 zoning district, is contrary to Z.R. §32-00.

**PREMISES AFFECTED** - 140-20 Farmers Boulevard, northwest corner of 142nd Avenue, Block 12592, Lot 315, Borough of Queens.

## **COMMUNITY BOARD #12Q**

**APPEARANCES** -

For Applicant: Phaniel Soba.

**ACTION OF THE BOARD** - Laid over to November 25, 2003, at 1:30 P.M., for continued hearing.

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## **150-03-BZ**

**APPLICANT** - Sheldon Lobel, P.C., for Bolshy Gulliver, Inc., owner.

**SUBJECT** - Application May 15, 2003 - under Z.R. §72-21 to permit the proposed construction of three additional floors above a one story and basement building, to form a mixed-use building, to contain as of right uses on the first floor and basement level, and a nine residential units on the remaining three floors, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

**PREMISES AFFECTED** - 136 Metropolitan Avenue, between Wythe Avenue and Berry Street, Block 2364, Lot 17, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

**APPEARANCES** -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to November 18, 2003, at 1:30 P.M., for continued hearing.

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## **219-03-BZ**

**APPLICANT** - Fischbein Badillo Wagner Harding, for Homes for the Homeless Summer Camp, Inc., owner.

**SUBJECT** - Application June 25, 2003 - under Z.R. §72-21 to permit the legalization of an existing philanthropic institution with sleeping accommodations, Use Group 3, in an M1-1 zoning district, which is contrary to Z.R. §42-00.

**PREMISES AFFECTED** - 175-15 Rockaway Boulevard, north side, between 175<sup>th</sup> Street and 149<sup>th</sup> Road, Block 13381, Lot 1, Borough of Queens.

## **COMMUNITY BOARD #13Q**

**APPEARANCES** -

For Applicant: Howard Hornstein and Peter Geis.

For Opposition: Senator Ada L. Smith, Assemblyman Michele Titus, Irving Poy on behalf of Queens Borough President, Justice Daniel W. Joy, Richard Hellenbrecht, Michael DuNalle, James

## **142-03-BZ**

**APPLICANT** - George Sirinakis/Phaniel Soba, for Ishamael Miller, owner.

Gulston, J. Clifford Gacksten and D. Sanders, Jr.

For Administration: Patti Hagan

**ACTION OF THE BOARD** - Laid over to December 16, 2003, at 1:30 P.M., for continued hearing.

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## **220-03-BZ**

**APPLICANT** - Fischbein Badillo Wagner Harding, for Homes for the Homeless Summer Camp, Inc., owner.

**SUBJECT** - Application June 25, 2003 - under Z.R. §72-21 to permit the legalization of an existing philanthropic institution with sleeping accommodations, Use Group 3, in an M1-1 zoning district, and the addition of a new building that does not comply with the rear yard requirement, is contrary to Z.R. §42-00 and §43-23 and §43-27.

**PREMISES AFFECTED** - 175-21 149<sup>th</sup> Avenue, a/k/a 175-48 148<sup>th</sup> Road, 140' east of 175<sup>th</sup> Street, Block 13380, Lots 11 and 63 (Tentative Lot 11), Borough of Queens.

## **COMMUNITY BOARD #13Q**

**APPEARANCES** -

For Applicant: Howard Hornstein and Peter Geis.

**ACTION OF THE BOARD** - Laid over to December 16, 2003, at 1:30 P.M., for continued hearing.

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*Pasquale Pacifico, Executive Director.*

Adjourned: 4:15 P.M.

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# CORRECTIONS

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**\*CORRECTION**

These resolution adopted on February 25, 2003, under Calendar Nos. 149-02-BZ and 150-02-BZ and printed in Volume 88, Bulletin Nos. 9-10, is hereby corrected to read as follows:

**149-02-BZ**

**CEQR #02-BSA-197R**

APPLICANT - Land Planning & Engineering Consultants, P.C., by Vito J. Fossella, P.E., for My Florist Inc., owner; Sisters, LLC, lessee.

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit in an R3-2 zoning district, the construction of two one-story buildings one housing a 7,326 square foot eating and drinking establishment, and the other housing a 3,831 square foot bank contrary to Z.R. §22-10.

PREMISES AFFECTED - 1821 Richmond Avenue, southeast corner of Eton Place, Block 2030, Lot 68, Borough of Staten Island.

**COMMUNITY BOARD #2S.I.**

APPEARANCES - None.

**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 May 3, 2002 acting on Application No. 500509782 reads:

“1. THE PROPOSED APPLICATION TO CHANGE EXISTING USE “RESELLING PRODUCTS NOT PRODUCED ON SAME LOT” APPROVED BY BSA UNDER CALENDAR # 269-71-BZ TO EATING AND DRINKING ESTABLISHMENT USE GROUP 6 IN R3-2 DISTRICT IS NOT PERMITTED AS-OF-RIGHT AND THEREFORE IS REFERRED TO THE BOARD OF STANDARDS AND APPEALS FOR VARIANCE.”; and

WHEREAS, a public hearing was held on this application on January 14, 2003 after due notice by publication in the *City Record*, and laid over to February 25, 2003 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 Satish Babbar, Commissioner Peter Caliendo and Commissioner Mitchell Korbey; and

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, to permit, in an R3-2 zoning district, the construction of two one-story buildings

one housing a 7,326 square foot eating and drinking establishment, and the other housing a 3,831 square foot bank contrary to Z.R. §22-10; and

WHEREAS, on January 11, 1972 under Calendar Number 269-71-BZ the Board permitted, on a plot with greenhouses, the sale of agricultural products grown off-site as amended through May 4, 1982, to include open accessory off street parking

WHEREAS, the subject site is an oversized irregularly shaped lot containing 84,153 square feet currently developed with approximately 20,000 square feet of greenhouse space, with approximately 8,000 square feet used for retail; and

WHEREAS, the record indicates that the greenhouse was developed at the turn of the 20<sup>th</sup> Century and has been family owned since its inception; and

WHEREAS, the applicant represents that in an attempt to remain competitive, the nursery has been amended and altered without economic success, because the trend is to convert nurseries to florists, landscape facilities, or specialized furniture facilities; and

WHEREAS, the evidence indicates that Richmond Avenue has transformed from a main thoroughfare to a commercial arterial roadway, developed on both sides with as-of-right or legal non-conforming professional offices, retail establishments or community facility uses; and

WHEREAS, the subject site is located on a Street without sanitary sewers adjacent to a mapped parkland and a commercial lot pursuant to 118-01-BZ; and

WHEREAS, therefore, the Board finds that the aforementioned unique physical conditions, an irregularly shaped oversized corner lot, the site’s history with a Board approved non-conforming uses, and evidence indicating that the commercial greenhouse is now obsolete, presents an undue hardship in developing the site with a conforming development; and

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

WHEREAS, the record indicates that replacing approximately 20,000 square feet of greenhouse space with one 7,800 square foot building and one 3,800 square foot building separated by a parking lot would not upset the character of the surrounding neighborhood; and

WHEREAS, the Board notes that the area surrounding the subject application, is characterized by commercial and eating and drinking establishments; and

WHEREAS, therefore, the Board finds that the introduction of an eating and drinking establishment and a bank use at the subject premises 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, the Board finds that this proposal is the minimum necessary to afford the owner relief; and



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# CORRECTIONS

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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 the Final Environmental Assessment Statement 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.

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, on a site previously before the Board, to permit, in an R3-2 zoning district, the construction of two one-story buildings one housing a 7,326 square foot eating and drinking establishment, and the other housing a 3,831 square foot bank contrary to Z.R. §22-10, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 23, 2002"-(2) sheets and "January 28, 2003"-(1) sheet; and on further condition;

THAT the term of the variances shall be limited to ten (10) years from the date of this grant expiring February 25, 2003;

THAT all signage on the premises shall comply with C1 and C2 regulations and shall not exceed a total of 150 square feet;

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

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

THAT the applicant shall comply with all applicable fire safety measures;

THAT 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, February 25, 2003.

**\*\*The resolutions has been corrected to add to the conditions:** "THAT all signage on the premises shall comply with C1 and C2 regulations and shall not exceed a total of 150 square feet;". **Corrected in Bulletin No. 45, Vol. 88, dated November 6, 2003.**

## 150-02-BZ CEQR #02-BSA-197R

APPLICANT - Land Planning & Engineering Consultants, P.C., by Vito J. Fossella, P.E., for My Florist Inc., owner; Sisters, LLC, lessee.

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit in an R3-2 zoning district, the construction of two one-story buildings one housing a 7,326 square foot eating and drinking establishment, and the other housing a 3,831 square foot bank contrary to Z.R. §22-10.

PREMISES AFFECTED - 1837 Richmond Avenue, southeast corner of Eton Place, Block 2030, Lot 68, Borough of Staten Island.

## COMMUNITY BOARD #2S.I.

APPEARANCES - None.

**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 May 3, 2002 acting on Application No. 500509782 reads:

"1. THE PROPOSED APPLICATION TO CHANGE EXISTING USE "RESELLING PRODUCTS NOT PRODUCED ON SAME LOT" APPROVED BY BSA UNDER CALENDAR # 269-71-BZ TO EATING AND DRINKING ESTABLISHMENT USE GROUP 6 IN R3-2 DISTRICT IS NOT PERMITTED AS-OF-RIGHT AND THEREFORE IS REFERRED TO THE BOARD OF STANDARDS AND APPEALS FOR VARIANCE."; and

WHEREAS, a public hearing was held on this application on January 14, 2003 after due notice by publication in the *City Record*, and laid over to February 25, 2003 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 Satish Babbar, Commissioner Peter Caliendo and Commissioner Mitchell Korbey; and

WHEREAS, this is an application under Z.R. §72-21,

# CORRECTIONS

zoning district, the construction of two one-story buildings one housing a 7,326 square foot eating and drinking

WHEREAS, on January 11, 1972 under Calendar Number 269-71-BZ the Board permitted, on a plot with greenhouses, the sale of agricultural products grown off-site as amended through May 4, 1982, to include open accessory off street parking; and

WHEREAS, the subject site is an oversized irregularly shaped lot containing 84,153 square feet currently developed with approximately 20,000 square feet of greenhouse space, with approximately 8,000 square feet used for retail; and

WHEREAS, the record indicates that the greenhouse was developed at the turn of the 20<sup>th</sup> Century and has been family owned since its inception; and

WHEREAS, the applicant represents that in an attempt to remain competitive, the nursery has been amended and altered without economic success, because the trend is to convert nurseries to florists, landscape facilities, or specialized furniture facilities; and

WHEREAS, the evidence indicates that Richmond Avenue has transformed from a main thoroughfare to a commercial arterial roadway, developed on both sides with as-of-right or legal non-conforming professional offices, retail establishments or community facility uses; and

WHEREAS, the subject site is located on a Street without sanitary sewers adjacent to a mapped parkland and a commercial lot pursuant to 118-01-BZ; and

WHEREAS, therefore, the Board finds that the aforementioned unique physical conditions, an irregularly shaped oversized corner lot, the site's history with a Board approved non-conforming uses, and evidence indicating that the commercial greenhouse is now obsolete, presents an undue hardship in developing the site with a conforming development; and

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

WHEREAS, the record indicates that replacing approximately 20,000 square feet of greenhouse space with one 7,800 square foot building and one 3,800 square foot building separated by a parking lot would not upset the character of the surrounding neighborhood; and

WHEREAS, the Board notes that the area surrounding the subject application, is characterized by commercial and eating and drinking establishments; and

WHEREAS, therefore, the Board finds that the introduction of an eating and drinking establishment and a bank use at the subject premises 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

bank contrary to Z.R. §22-10; and

the owner or a predecessor in title; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement 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.

*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, on a site previously before the Board, to permit, in an R3-2 zoning district, the construction of two one-story buildings one housing a 7,326 square foot eating and drinking establishment, and the other housing a 3,831 square foot bank contrary to Z.R. §22-10, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 23, 2002"-(2) sheets and "January 28, 2003"-(1) sheet; and on further condition;

THAT the term of the variances shall be limited to ten (10) years from the date of this grant expiring February 25, 2003;

THAT all signage on the premises shall comply with C1 and C2 regulations and shall not exceed a total of 150 square feet;

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

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

THAT the applicant shall comply with all applicable fire safety measures;

THAT 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, February 25, 2003.

**\*\*The resolutions has been corrected to add to the conditions: “*THAT all signage on the premises shall comply with C1 and C2 regulations and shall not exceed a total of 150 square feet;*”. Corrected in Bulletin No. 45, Vol. 88, dated November 6, 2003.**