
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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October 9, 2003

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300-03-BZ B.M. 326 East 126th
Street,

south side, between First and Second Avenues, Block 1802, Lot 36, Borough of Manhattan. N.B. #103533231. Proposed construction of a six (6) story residential building, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-10.

COMMUNITY BOARD #11M

301-03-BZ B.BK. 1103 East 22nd Street,
between Avenues "J" and "K", Block 7604, Lot 31,
Borough of Brooklyn. Alt.1 #301622885. Proposed
enlargement of an existing single family residence, Use
Group 1, located in an R2 zoning district, which does not
comply with the zoning requirements for floor area, open
space ratio, rear and side yards, is contrary to Z.R. §23-
141, §23-46 and §23-47.

COMMUNITY BOARD #14BK

302-03-BZ B.BK. 1212 East 23rd Street,
west side, 100' south of Avenue "L", Block 7640, Lot 51,
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erection of a rear enlargement to an existing one family
dwelling, also an extension of the residential use into the
attic, Use Group 1, located in an R2 zoning district, which
does not comply with the zoning requirements for floor area
ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and
§54-31.

COMMUNITY BOARD #14BK

303-03-BZ B.BK. 433 Columbia Street,
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Block 534, Lot 4, Borough of Brooklyn. Applic.
#301643327. Proposed reconstruction of a four story
residential building, Use Group 2, that had existed at this
location and was demolished by the City of New York,
which does not comply with the zoning requirements for
floor area, lot size, perimeter wall, dwelling units, side
yards and parking, is contrary to Z.R. §23-141(a), §23-32,
§23-631(d), §23-22, §23-462 and §25-23.

COMMUNITY BOARD #6BK

304-03-BZ B.BX. 4299 Katonah Avenue,
between East 236th and East 237th Streets, Block 3377,
Lot 59, Borough of The Bronx. Applic. #200801766.
Proposed dancing, Use Group 12, at an existing eating
and drinking establishment, is not permitted in a C1-3
within an R5B zoning district, and is therefore contrary to
Z.R. §32-31.

COMMUNITY BOARD #12BX

305-03-BZ B.BK. 2, 8, 10 Grand Avenue,
southwest corner of Flushing Avenue, Block 1877, Lots 27
and 30, Borough of Brooklyn. Alt.1 #301537399. The
legalization of residential occupancy, Use Group 2, located
in an M1-2 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #2BK

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

CALENDAR

NOVEMBER 18, 2003, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 18, 2003, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

389-37-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Rosemarie Fiore, Georgette Fiore ad George Fiore, owner.
SUBJECT - Application July 2, 2003 - reopening for an extension of term of variance which expired June 13, 2003.
PREMISES AFFECTED - 31-08 to 31-12 45th Street, 44-09 Newtown Road, 44-16 31st Avenue, 1.01' feet west of 45th Street, Block 710, Lots 5, 6, 17, 18, 19, Borough of Queens.
COMMUNITY BOARD #1Q

1152-64-BZ

APPLICANT - Eric Palatnik, P.C., for Ford Leasing Development Company, owner.
SUBJECT - Application August 27, 2003 - reopening for an amendment to the resolution.
PREMISES AFFECTED - 2385 Richmond Avenue, between Nome Avenue and Richmond Hill Road, Block 2402, Lot 200, Borough of Staten Island.
COMMUNITY BOARD #2SI

489-82-BZ

APPLICANT - Beryl J. Levi, for Tower Isles Frozen Foods, Ltd., owner.
SUBJECT - Application October 3, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired February 1, 2003 and for an amendment to the resolution.
PREMISES AFFECTED - 2025 Atlantic Avenue, aka 228 Hopkinson Avenue, north side of Atlantic Avenue bounded by Radde Place and Hopkinson Avenue, Block 1564, Lot 1, Borough of Brooklyn.
COMMUNITY BOARD #16BK

297-03-A

APPLICANT - Fischbein Badillo Wagner Harding, for 101-02/10 Metropolitan, owner.

69-91-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for 61 West 62 Owners Corp., owner; TSI Lincoln, Inc. dba New York Sports Club, lessee.
SUBJECT - Application September 12, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired November 26, 2001.
PREMISES AFFECTED - 49-61 West 62nd Street aka 61-67 Columbus Avenue aka 1881-1887 Broadway, West 62nd Street on the northeast corner of Columbus Avenue, Block 1115, Lot 1, Borough of Manhattan.
COMMUNITY BOARD #7M

APPEALS CALENDAR

235-03-A & 236-03-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector for Castle View Associates, LLC, owner.
SUBJECT - Application July 9, 2003 - Proposed construction of a two family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.
PREMISES AFFECTED - 119 Kenilworth Avenue, east side, 40' south of Winston Street, Block 5725, Lot 32, Borough of Staten Island.
18 Winston Street, south side, 100' west of Woodrow Road, Block 5725, Lot 48, Borough of Staten Island.
COMMUNITY BOARD #3SI

254-03-A

APPLICANT - Petraro & Jones, LLP, for Robert J. Eckert, II ad Jessica Rojas Eckert, owners.
SUBJECT - Application August 8, 2003 - Proposed construction of a single family dwelling, located partially within the bed of mapped street, is contrary to Section 35, Article 3 of the General City Law.
PREMISES AFFECTED - 423 Cross Bay Boulevard, west side, 150.69' north of 191st Avenue, Block 15306, Lot 6 (tentative), Borough of Queens.
COMMUNITY BOARD #14Q

SUBJECT - Application September 11, 2003 - Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

CALENDAR

PREMISES AFFECTED - 101-10 Metropolitan Avenue, aka 91-51/99 71st Avenue, southwest corner, Block 3896, Lot 42, Borough of Queens.

COMMUNITY BOARD #6Q

NOVEMBER 18, 2003, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, November 18, 2003, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

108-03-BZ thru 110-03-BZ

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC, owners.

SUBJECT - Application April 4, 2003 - under Z.R. §72-21 to permit the proposed construction of a four story residential building, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, also front and rear yards, is contrary to Z.R. §23-631, §23-45 and §23-47.

PREMISES AFFECTED -

135 Coffey Street, between Conover and Van Brunt Streets, Block 597, Tentative Lots 9 and 11, Former Lots Numbers, 9-11, 13, 14, 37 and 38, Borough of Brooklyn.

71 Walcott Street, between Richard and Van Brunt Streets, Block 596, Tentative Lot 24, Former Lots Numbers, 23-29 and 43, Borough of Brooklyn.

79 Walcott Street, between Richard and Van Brunt Streets, Block 596, Tentative Lot 12, Former Lots Numbers, 12-15, 22, 23, 49 and 50, Borough of Brooklyn.

COMMUNITY BOARD #2BK

199-03-BZ thru 205-03-BZ

APPLICANT - Stuart A. Klein, Esq., for Classon Holding Co., owner.

SUBJECT - Application June 17, 2003 - under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED -

148 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 42, Borough of Brooklyn.

244-03-BZ

APPLICANT - Eric Palatnik, P.C., for Victor Falah, owner.

SUBJECT - Application July 17, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for side yard, rear yard, floor

152 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 46, Borough of Brooklyn.

156 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 47, Borough of Brooklyn.

77 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 117, Borough of Brooklyn.

81 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 116, Borough of Brooklyn.

85 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 115, Borough of Brooklyn.

89 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 114, Borough of Brooklyn.

COMMUNITY BOARD #3BK

238-03-BZ

APPLICANT - Harold Weinberg, P.E., for Congregation Derech Emunah, owner.

SUBJECT - Application July 9, 2003 - under Z.R. §72-21 to permit the proposed side and rear enlargements, to an existing synagogue and parsonage, Use Group 4, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, side and rear yards, is contrary to Z.R. §24-11, §24-35 and §24-36.

PREMISES AFFECTED - 2305 Olean Street, north side, 16'-1/2" east of East 23rd Street, Block 7677, Lot 63, Borough of Brooklyn.

COMMUNITY BOARD #14BK

240-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Young Israel of Jamaica Estates, Inc., owner.

SUBJECT - Application July 10, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing two story synagogue, Use Group 4, located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area ratio, building height, side yards, rear yard, also the proposed addition of lot 39 to the existing building, is contrary to Z.R. §24-10, §24-111, §24-521, §24-35 and §24-36, and a previous variance granted under Cal. No. 815-85-BZ.

PREMISES AFFECTED - 83-10 and 83-16 188th Street, south side, between Midland Parkway and Radnor Road, Block 7263, Lots 35 and 39, Borough of Queens.

COMMUNITY BOARD #8Q

area and open space ratio, is contrary to Z.R. §23-461, §23-47 and §23-141.

PREMISES AFFECTED - 3975 Bedford Avenue, between Avenues "S" and "R", Block 6831, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #15BK

CALENDAR

Borough of Manhattan.
COMMUNITY BOARD #5M

251-03-BZ & 252-03-BZ

APPLICANT - Sheldon Lobel, P.C., for A.N. Glory Associates, owner.

SUBJECT - Application July 31, 2003 - under Z.R. §72-21 to permit

the proposed construction of a semi-detached two-story, two family dwelling, Use Group 2, having on-site accessory parking, on a lot having that has a non-complying rear yard, is contrary to Z.R. §23-47.

PREMISES AFFECTED - 217-25 106th Avenue, corner of 217th Street, Block 11104, Lot 268, Borough of Queens.
217-31 106th Avenue, corner of 217th Street, Block 11104, Lot 270, Borough of Queens.

COMMUNITY BOARD #13Q

Pasquale Pacifico, Executive Director

253-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 163-15 Northern Flushing Corp., owner.

SUBJECT - Application August 4, 2003 - under Z.R. §72-21 to permit the proposed reduction in the number of required parking spaces, for an as of right, two story and basement building, to be used as five retail stores, located in a C2-2/R4 zoning district, is contrary to Z.R. §36-21.

PREMISES AFFECTED - 163-15 Northern Boulevard, bounded by 164th Street and Station Road, Block 5338, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

298-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 260 Park Avenue South, owner.

SUBJECT - Application September 12, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing eight story building, by allowing available floor area to cross district boundary lines, from the adjacent building, that is located in an M1-5M zoning district, to said premises that is located in a C6-4A zoning district, which would exceed the maximum floor area permitted, and is contrary to Z.R. §23-145.

PREMISES AFFECTED - 260 Park Avenue South, west side, between East 20th and East 21st Streets, Block 849, Lot 43,

**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 30, 2003
10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, July 15, 2003, were approved as

printed in the Bulletin of July 24, 2003, Volume 88, No. 28-29.

SPECIAL ORDER CALENDAR

849-49-BZ

APPLICANT - Jay A. Segal, Esq., for Directors Guild of America,

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Inc., owner.

SUBJECT - Application June 24, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired January 3, 2002.

PREMISES AFFECTED - 110 West 57th Street, south side of West 57th Street, between Avenue of the Americas and 7th Avenue, Block 1009, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Jay Segal.

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

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance which expired on January 31, 2002; and

WHEREAS, a public hearing was held on this application on September 9, 2003, after due notice by publication in *The City Record*, and then to September 30, 2003 for decision; and

WHEREAS, in its resolution dated March 28, 1950, as amended and extended in term through May 9, 1995, the Board conditionally granted an application to permit, in a "restricted retail use district", the change in occupancy from a club to a motion picture theater and other uses; and

WHEREAS, since March 28, 1950, the Board has exercised jurisdiction of the premises under calendar number 849-49-BZ, on both the Zoning and Special Order Calendars, including three grants of extension of the term of the variance; and

WHEREAS, the record indicates that the premises has been continuously occupied as a theater from the date of the last grant of extension of term, on May 9, 1995; and

WHEREAS, the record indicates that the use of the subject theater complies with the plans approved by the Board on May 9, 1995, and also that the conditions of said Board approval have been met.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and*

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on March 19, 2002, after due notice by publication in *The City Record*, and laid over to February 25, 2003, April 16, 2003, May 21, 2002, June 3, 2003, August 6, 2002, September 9, 2003, and then September 30, 2003 for decision; and

amends the resolution to extend the term of the variance which expired on January 31, 2002, so that as amended this portion of the resolution shall read:

"to permit the extension of the term of the variance for an additional ten (10) years from January 31, 2002 to expire on January 31, 2012, on condition

THAT all work and use shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 24, 2003"-(7) 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 #103455976)

Adopted by the Board of Standards and Appeals, September 30, 2003.

37-96-BZ

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

SUBJECT - Application June 1, 2001 - reopening for an amendment to the resolution and for an extension of time to complete construction.

PREMISES AFFECTED - 1601 Bronxdale Avenue, southwest corner of East Tremont Avenue, Block 4042, Lot 200, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application reopened, resolution amended and time to complete construction extended.

WHEREAS, on May 6, 1997, the Board granted a special permit under Z.R. §73-49, to permit, in an M1-1 zoning district, accessory rooftop parking of 150 spaces or less, immediately above the first floor of an existing one and two story commercial building; and

WHEREAS, the applicant requests an amendment to the resolution to increase the number of parking spaces, re-configure the ramp leading to the parking level and to extend the time to complete construction; and

WHEREAS, in response to a Board request, the applicant has submitted a permanent easement for pedestrian and vehicular ingress and egress between

MINUTES

Consolidated Edison and the owner of the subject premises; and

WHEREAS, the aforementioned easement will enable the applicant to construct and maintain the subject inclined ramp or roadway from Bronxdale Avenue to the proposed parking facility on the roof of the building.

Resolved, that the Board of Standards and Appeals, *reopens and amends* the resolution, pursuant to Zoning Resolution Sections 72-01 and 72-22, extends the time to complete construction which expired on May 6, 1999 so that as amended this portion of the resolution shall read:

“to allow an increase in the number of parking spaces to 145 and to extend the time to complete construction to 72 months from May 6, 1999, 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 23, 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 a recorded copy of the easement referenced above be submitted to the Board’s Executive Director by May 6, 2004, and the reel and page number be noted on the Certificate of Occupancy;

THAT fencing and screening shall be provided and maintained in accordance with BSA approved plans;

THAT lighting shall be positioned down and away from adjacent uses

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 #200306347)

Adopted by the Board of Standards and Appeals, September 30, 2003.

465-63-BZ

APPLICANT - Francis R. Angelino, Esq., for Mutual Redevelopment Houses, Inc., owner; Impact Parking Corp., lessee.

SUBJECT - Application July 15, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time which expired October 10, 2002.

PREMISES AFFECTED - 333 West 26th Street, between Eighth & Ninth Avenues, north side, 245.75' west of Eighth Avenue, Block 751, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Francis R. Angelino.

74-49-BZ

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

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

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

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Jordan Most.

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

202-62-BZ

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owners.

SUBJECT - Application April 1, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired April 3, 2001 and for an amendment to the resolution.

PREMISES AFFECTED - 950 Allerton Avenue, triangular lot bound by Allerton Avenue, Williamsbridge Road and Paulding Avenue, Block 4447, Lot 62, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Laid over to October 21, 2003, at 10 A.M., for continued hearing.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar and Commissioner Caliendo and Commissioner Miele.....4 Negative:0

ACTION OF THE BOARD - Laid over to October 21, 2003, at 10 A.M., for decision, hearing closed.

813-63-BZ

APPLICANT - Howard A. Zipser/Stadtmauer Bailkin LLP, for Selma R. Miller, owner; Central Parking Corporation, lessee.

SUBJECT - Application August 6, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension

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of term of variance which expired January 22, 2002.
PREMISES AFFECTED - 699/717 West End Avenue, west side of West End Avenue between West 94th and 95th Streets, Block 1253, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Howard Zipser.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar and Commissioner Caliendo and Commissioner Miele.....4 Negative:
.....0

ACTION OF THE BOARD - Laid over to October 21, 2003, at 10 A.M., for decision, hearing closed.

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 31st Street, east side of 31st Street, 217.71' North of 36th Avenue, Block 604, Lot 10, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Sandy Anaginostou.

ACTION OF THE BOARD - Laid over to October 28, 2003, at 10 A.M., for continued hearing.

1122-81-BZ

APPLICANT - The Agusta Group, for Brothers Roofing Supplies Co., Inc., owner.

SUBJECT - Application June 12, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired November 9, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 105-14 Astoria Boulevard, southwest corner of 106th Street and Astoria Boulevard, Block 1692, Lots 3,

31-96-BZ

APPLICANT - Eric Palatnik, P.C., for Jane Goldberg, owner.

SUBJECT - Application July 1, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired February 11, 2003.

PREMISES AFFECTED - 41 East 20th Street, between Broadway and Park Avenue South, Block 849, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar and Commissioner Caliendo and Commissioner Miele.....4 Negative:
.....0

ACTION OF THE BOARD - Laid over to October 7, 2003, at 10 A.M., for decision, hearing closed.

5, 9 and 11, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to October 21, 2003, at 10 A.M., for deferred decision.

245-90-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Margarita Herskovich and Lyubov Herskovich, owners.

SUBJECT - Application June 12, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 29, 2001.

PREMISES AFFECTED - 1054 43rd Street, south side of 43rd Street, Block 5602, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Laid over to November 5, 2003, at 10 A.M., for continued hearing.

145-95-BZ

APPLICANT - Sullivan Chester & Gardner, P.C., for LRHC, Inc., d/b/a Lucille Roberts, owner.

SUBJECT - Application June 5, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired November 13, 2002.

PREMISES AFFECTED - 80 Fifth Avenue, southwest corner of West 14th Street, Block 577, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES - None.

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

67-02-BZ

APPLICANT - Davidoff & Malito, LLP, by Howard S. Weiss, Esq. And Juan D. Reyes, III, Esq., for Korean Presbyterian Church of Queens, owner.

SUBJECT - Application July 18, 2003 - reopening for an extension of time to obtain a certificate of occupancy which expired June 18, 2002.

PREMISES AFFECTED - 143-22 Franklin Avenue and 143-25 Ash Avenue, 210' north of intersection of Franklin Avenue and Bowe Street and 211' north of intersection of Ash Avenue and Bowe Street, Block 5184, Lots 9 and 53, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Juan Reyes.

THE VOTE TO CLOSE HEARING -

MINUTES

Affirmative: Chairman Chin, Vice-Chair Babbar and Commissioner Caliendo and Commissioner Miele.....4 Negative:0

ACTION OF THE BOARD - Laid over to October 21, 2003, at 10 A.M., for decision, hearing closed.

21-02-A thru 25-02-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for MSIM Development, Inc., owner.

SUBJECT - Application January 8, 2002 - Proposed two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

258-31 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 26, Borough of Queens.

258-33 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 27, Borough of Queens.

258-35 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 28, Borough of Queens.

258-37 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 128, Borough of

WHEREAS, by the letter dated July 15, 2003, the Department of Environmental Protection has reviewed the above revised project and requires the applicant to revise the location of the proposed construction to provide a permanent 25 ft. "Sewer Corridor Easement" located within the owner's properties with no permanent structures being built within this "Sewer Corridor" for the future drainage for the purpose of installation, maintenance and/or reconstruction of the 10 inch dia. Sanitary and 12 inch dia. Storm sewers; and

WHEREAS, by letter dated August 27, 2003, the applicant has agreed with DEP's request and has revised the site plan to provide for the "Sewer Corridor Easement"; and

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

Resolved, that the decision of the DOB Borough Commissioner, dated May 1, 2002 acting on N.B. Application No. 401378237, 401378246, 401378228, 401378479, 401378460, is modified under the power vested in the Board by Section 35 of the General City

Queens.

258-39 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 29, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES - None.

ACTION OF THE BOARD - Appeals granted.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings Borough Commissioner dated May 1, 2002, acting on N.B. Application Nos. 401378237, 401378246, 401378228, 401378479, and 401378460, reads in pertinent part:

"Proposed Construction is located in the bed of a finally mapped street is contrary to Article 111, Section 35 of the General City Law and must be referred to the Board of Standards and Appeals,"; and

WHEREAS, this appeal is filed to allow five one-family dwellings to be built in a portion of the bed of a mapped street known as 147th Avenue, between Francis Lewis Boulevard and Hook Creek Boulevard; and

WHEREAS, the Fire Department has reviewed the above project and has required that the interior buildings be sprinklered in accordance with Local Law 10/99, RS17-2B of the NYC Admin. Code, that a new 8" water main be installed within the development, and that a new hydrant with fender guards be installed; and

WHEREAS, by the letter dated November 20, 2002, the Department of Transportation has reviewed the above project and has no objections as this site is not currently included in DOT's Capital Improvement Program; and

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 September 2, 2003"-(1) sheet; and that the proposal comply with all applicable zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; and on further condition

THAT the 25 foot sewer corridor easement that is acceptable to the DEP is created and recorded prior to the issuance of the Certificate of Occupancy;

THAT the interior buildings be sprinklered as per Local Law 10/99, a new 8" water main be installed within the development and a new hydrant with fender guards be installed;

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;

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

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

Adopted by the Board of Standards and Appeals, September 30, 2003.

117-03-A

APPLICANT - Molly Abady (Luca Sartini, Toni Vastinar.

OWNER OF PREMISES: Memorial Hospital.

SUBJECT - Application April 11, 2003 - An appeal challenging the Department of Buildings determination, dated March 24, 2003, in which the Department has stated that the project (research laboratory), is allowed as a Use Group 4, hospital "related facility".

As a "related facility", (Sloan Kettering) the use is allowed as of right in a residential district.

PREMISES AFFECTED - 411/25 East 68th Street, Mid-block, between First and York Avenues, Block 1463, Lots 5, 9 and 11, Borough of Manhattan.

APPEARANCES -

For Applicant: None.

ACTION OF THE BOARD - Appeal denied.

THE VOTE TO GRANT -

Affirmative:.....0

Negative: Chairman Chin, Vice-Chair Babbar,

WHEREAS, the afore-mentioned C.P.C. approvals reference the proposed facility, and note that the designation of the MSKCC as a large-scale community facility development allows C.P.C. to waive certain bulk regulations for the proposed facility; and

WHEREAS, the development contains various medical facilities (including a hospital) and related uses, located within a three-block area, generally bounded by East 66th Street on the south, East 69th Street on the north, First Avenue on the west, and York Avenue on the east - said area making up the Memorial Sloan-Kettering Cancer Center ("MSKCC") campus; and

WHEREAS, the proposed facility will be situated on the north block of the MSKCC campus, which currently contains an existing MSKCC research facility, vacant land and a church; and

WHEREAS, the middle block of the MSKCC campus contains various medical buildings, the Radiation Oncology Building, Memorial Hospital ("Memorial"), and Winston Surgical Pavilion; and

WHEREAS, the record shows that the proposed facility will be sited directly across the street from Memorial; and

WHEREAS, the south block of the MSKCC campus

Commissioner Caliendo and Commissioner Miele.....4

THE RESOLUTION -

WHEREAS, the instant appeal comes before the Board in response to a determination issued March 24, 2003 by the New York City Department of Buildings ("DOB") to certain aggrieved individuals (collectively, the "appellants"), who had requested revocation of a DOB permit allowing construction of a proposed medical research facility (the "proposed facility") at the subject premises; and

WHEREAS, said DOB determination states, in part, "The Department of Buildings has reviewed your concerns and has determined that the project is allowed as a Use Group 4, hospital 'related facility'. As a 'related facility', the use is allowed as of right in a residential district;" and

WHEREAS, the record shows that on May 21, 2001, a DOB plan examiner issued an objection to the new building application for the proposed facility, on the basis that the paperwork submitted with the application indicated that the proposed facility was a laboratory, and best categorized under Use Group ("UG") 9 or 17, and thus not permitted as-of-right in an R8 or R9 zoning district; and

WHEREAS, the record shows that this particular objection was satisfied as of November 14, 2002, and that DOB subsequently issued a new building permit for the proposed facility on January 10, 2003; and

WHEREAS, the subject premises is located within R8 and R9 zoning districts, and also within a designated large-scale community facility development (the "development"), which was the subject of recent approvals by the City Planning Commission ("CPC"), dated November 28, 2001, under application numbers C010547ZMM, C010548ZSM, and N010549ZMM; and

contains the Rockefeller Research Laboratory, staff housing and offices; and

WHEREAS, appellants note that prior to issuance of its March 24, 2003 decision, DOB issued an objection to the application for the proposed facility, which stated that the proposed facility should be classified as a UG 9 or 17 research lab; and

WHEREAS, appellants claim that the proposed facility is a UG 17 use, pursuant to Z.R. §42-14(b), which lists, in part, permitted UG 17 uses, and which includes "laboratories, research, experimental, testing" as a listed use; and

WHEREAS, appellants further claim that since the proposed facility properly falls under UG 17, it is not permitted as-of-right in R8 or R9 zoning districts; and

WHEREAS, appellants contend that because the proposed facility will not be used for direct patient care and is not owned or operated by a particular hospital, it can not be considered a "hospital related facility", which, pursuant to Z.R. §22-14, is listed as UG 4; and

WHEREAS, appellants argue that, pursuant to Z.R. §§22-00 and 42-00, which both provide "Whenever a use is specifically listed in a Use Group and also could be construed to be incorporated within a more inclusive listing,

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either in the same or another Use Group, the more specific listing shall control,” the proposed facility must be characterized as a UG 17 research laboratory; and

WHEREAS, appellants maintain that representatives of MSKCC did not file for a Certificate of Need for the proposed facility with the New York State Department of Health (“NYSDOH”), pursuant to Section 2802 of the Public Health Law, and in correspondence to NYSDOH, stated that such certificate is not necessary for a facility that does not meet the definition of a hospital, does not provide direct treatment to patients, and is not sufficiently related to a hospital; and

WHEREAS, appellants assert that since the proposed facility is not hospital related per the Public Health Law, it can not be a hospital related facility pursuant to Z.R. §22-14; and

WHEREAS, appellants contend that there will be no involvement in patient care at Memorial by staff at the proposed facility; and

WHEREAS, appellants argue that because the proposed facility is a UG 17 research laboratory, it can not be a community facility, and therefore may not enjoy any community facility floor area bonus; thus its proposed bulk is contrary to zoning regulations; and

WHEREAS, appellants contend that the proposed facility would have a deleterious effect on the immediate community; and

WHEREAS, DOB represents that the proposed facility and Memorial are owned by entities which are under the same ownership umbrella of MSKCC; and

WHEREAS, DOB notes that the relevant lots within the development are all owned by related entities of MSKCC; and

WHEREAS, the record indicates that tissue research conducted at the proposed facility depends on the proximity to the patients from whom the tissue samples will be taken; and

WHEREAS, DOB maintains, and the Board agrees, that the requirements of the NYSDOH in evaluating the necessity of a Certificate of Need are separate and distinct from those of DOB in evaluating the proposed facility in light of the Z.R.; and

WHEREAS, the Board notes that the record shows that a facility at 435 E. 67th Street was defined by DOB as a hospital related facility, and that said facility contains laboratories, tissue culture rooms, research, and animal housing; and

WHEREAS, the Board notes that the March 24, 2003 DOB determination, issued by DOB’s Manhattan Borough Commissioner, overruled the DOB objection related to the Use Group categorization of the proposed facility, issued on May 21, 2001 by a DOB plan examiner; and

WHEREAS, the Board observes that DOB plan examination objections are routinely overruled upon reconsideration by DOB Borough Commissioners, and that the existence of such an overruled objection is not binding upon DOB or the Board; and

WHEREAS, the Board notes that CPC, in its recent approvals concerning the development, discussed the

WHEREAS, the record shows that the medical facilities within the development are owned by various MSKCC-related but separate corporate entities, including Memorial, the Sloan Kettering Institute for Cancer Research (“SKI”), and SKI Realty, and that said entities, while separate, share members of boards of managers and have established joint committees; and

WHEREAS, the record shows that the subject premises was originally purchased by Memorial, with ownership subsequently transferred to SKI when it was decided that the property would be utilized for its currently contemplated purposes; and

WHEREAS, DOB notes that it relied upon CPC’s finding that the proposed facility is part of a large-scale community facility development, which also includes Memorial, in classifying the proposed facility a UG 4 hospital related facility; and

WHEREAS, DOB notes that the projected use of the proposed facility for cancer research is directly related to the services provided by Memorial, a leading hospital for cancer care, and that Memorial has a programmatic need for a state-of-the-art facility of the type proposed; and

WHEREAS, DOB further notes that researchers at the proposed facility will collaborate with Memorial’s treatment providers for patient care purposes, and that the two facilities will share staff; and

WHEREAS, the record indicates that the employees of the proposed facility will be employees of MSKCC and that many of the physicians conducting research at the facility will also be treating patients at Memorial, though some outside researchers may conduct research at the proposed facility; and

proposed facility as part of said development (a large-scale community facility development pursuant to Z.R. §12-10); and

WHEREAS, the Board notes that the environmental impacts of the proposed facility have been duly considered, and that an Environmental Impact Statement has been filed and adopted by the Board; and

WHEREAS, the Board notes that in its prior decision concerning the proposed facility, BSA case number 130-01-BZ (the “prior decision”), it found that the proposed facility would “not have any significant adverse impacts upon the quiet, privacy, light, and air of the surrounding neighborhood”; and

WHEREAS, the Board notes that the record shows that the proposed facility will be a not-for-profit entity, primarily used for cancer research, and that Memorial is a leading hospital specializing in the treatment of cancer, and that the two facilities will be directly across the street from one another; and

WHEREAS, the Board observes that in the prior decision, MSKCC demonstrated that the proposed facility must be in close proximity to the clinical treatment facilities located across the street (Memorial); and

WHEREAS, the Board notes that in the prior decision, MSKCC demonstrated that “its programmatic needs for future growth and a world-renowned cancer center require

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the requested state-of-the-art laboratories and related equipment and office units which will provide for research and related clinical integration within the limited land which it has available for development in the immediate proximity to its other clinical and research buildings"; and

WHEREAS, the Board notes that in the prior decision, it determined that the existing MSKCC research facility, which will be replaced by the proposed facility, is a community facility; and

WHEREAS, the Board finds that Z.R. §§22-00 and 42-00 are inapplicable to the instant facts, as the proposed facility meets the definition of hospital related facility, as set forth at Z.R. §22-14(a); and

WHEREAS, the Board finds that, based on the evidence, the proposed facility is a UG 4 hospital related facility, and is therefore permitted as of right in R8 and R9 zoning districts; and

WHEREAS, consequently, the Board finds that, based on the evidence, the March 24, 2003 DOB determination described above was reasonable; and

Therefore, it is resolved that the final determination of the New York City Department of Buildings, dated March 24, 2003, is upheld and this appeal is denied.

Adopted by the Board of Standards and Appeals, September 30, 2003.

177-03-A

APPLICANT - Eric Palatnik, P.C., for Lai Ho Chen, owner.

SUBJECT - Application May 23, 2003 - Proposed residential

WHEREAS, by the letter dated July 14, 2003, the Department of Environmental Protection has reviewed the above project and requires the applicant to show a 25 ft. "Sewer Corridor Easement" within the bed of Blackstone Avenue; and

WHEREAS, this permanent "Sewer Corridor" is to be partially located within Block 5942, Lot 192 (the subject application) and also within Block 5492, Lot 308 for the future installation, maintenance and/or reconstruction of a 15 inch diameter combined sewer located in Blackstone Avenue between West 252nd Street and West 254th Street; and

WHEREAS, by an affidavit dated September 10, 2003, the owner of both Lot 192 and Lot 308 has consented to the grant of an easement to DEP for both properties; and

WHEREAS, by letter dated July 21, 2003, the Department of Transportation has reviewed the above project and has no objection as this site is not currently included in DOT's Capital Improvement Program; and

WHEREAS, the site rests within an Natural Area (NA) designated area, under the Zoning Resolution, which requires that a Certification be obtained from the Department of City Planning prior to the issuance of any work permits; and

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

Resolved, that the decision of the DOB Borough Commissioner, dated May 1, 2003, acting on N.B.

structure, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 626 West 254th Street, between Arlington and Independence Avenues, Block 5942, Lot 192, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Appeal granted.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION-

WHEREAS, the decision of the Department of Buildings Borough Commissioner, dated May 1, 2003, N.B. Application No. 200780360, reads in pertinent part:

"Proposed residential structure in the bed of a final mapped street is contrary to General City Law Section 35"; and

WHEREAS, this appeal is filed to allow a single two-story dwelling to be built in the bed of mapped streets known as Blackstone Avenue and West 254th Street; and

Application No. 200780360, 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 September 4, 2003"-(1) sheet; and that the proposal comply with all applicable zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; and on further condition

THAT the aforementioned 25 foot sewer corridor easement, as consented to by the DEP, is created and recorded prior to the issuance of the Certificate of Occupancy;

THAT a Certification from the Department of City Planning be obtained before issuance of a work permit;

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)

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

Adopted by the Board of Standards and Appeals, September 30, 2003.

180-03-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Julieta Pizzini, owner.

SUBJECT - Application May 28, 2003 - Proposed two-family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 86 Sweetbrook Road, southwest corner of Getz Avenue, Block 5523, Lot 83, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

APPEARANCES - None.

ACTION OF THE BOARD - Appeal granted.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Department of Resolved, that the decision of the Staten Island Borough Commissioner, dated April 29, 2003 acting on N.B. Application No. 500605197, 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 September 2, 2003"-(1) sheet; and that the proposal comply with all applicable zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; on further condition

THAT the 12' 6" "sewer corridor easement", that is acceptable to DEP, is created and recorded prior to the issuance of the Certificate of Occupancy;

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, September 30, 2003.

Buildings Borough Commissioner, dated April 29, 2003, acting on N.B. Application No. 500605197, reads in pertinent part:

"Proposed Construction is located within the bed of a mapped street is contrary to Section 35 of the General City Law"; and

WHEREAS, this appeal is filed to allow a single two-story, two-family dwelling to be built in a portion of the bed of a mapped street known as Getz Avenue between Sweetbrook Road and Genesee Avenue; and

WHEREAS, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 21, 2003, the Department of Transportation has reviewed the above project and has no objections as this site is not currently included in DOT's Capital Improvement Program; and

WHEREAS, by letter dated September 12, 2003, the Department of Environmental Protection has reviewed the revised site plan for the proposed development showing a 12' 6" clearance on the owner's property in the bed of the mapped street (Getz Avenue) for the permanent "Sewer Corridor"; and

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

91-03-A

APPLICANT - Paul Gregory, R.A., for 349 Broadway Group LP, owner.

SUBJECT - Application March 21, 2003 - Proposed increase in the number of loft dwelling units in an existing nine story mixed use building, must comply with Local Law 10/99 regarding sprinklers.

PREMISES AFFECTED - 349 Broadway, a/k/a 93 Leonard Street, northwest corner, Block 174, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Paul Gregory and Irving E. Minkin.

For Opposition: Ganine A. Gaylari, Department of Buildings.

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

Pasquale Pacifico, Executive Director.

Adjourned: 10:30 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, SEPTEMBER 30, 2003
2:00 P.M.**

MINUTES

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

ZONING CALENDAR

210-02-BZ thru 213-02-BZ

CEQR #03-BSA-010Q thru CEQR #03-BSA-013Q

APPLICANT - Sheldon Lobel, P.C., for Mark Grane, owner.
SUBJECT - Application July 15, 2002 - under Z.R. §72-21 to permit in an R5 zoning district with a C1-2 commercial overlay, a two-story and cellar mixed use building with commercial use on the ground floor and residential use on the second floor, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space ratio, and lot area per dwelling unit, contrary to Z.R. §35-32, §23-141, §23-22 and §35-40.

PREMISES AFFECTED -

78-01 Myrtle Avenue, northeast corner of 78th Street, Block 3827, Lot 50, Borough of Queens.

78-03 Myrtle Avenue, between 78th and 79th Streets, (20' east of 78th Street), Block 3827, Lot 49, Borough of Queens.

78-05 Myrtle Avenue, between 78th and 79th Streets, (39.15' east of 78th Street), Block 3827, Lot 48, Borough of Queens.

3. Proposed open space for the residential portion of the building does not meet the minimum open space required by Section 23-141 of the Zoning Resolution.
4. Proposed number of dwelling units in the mixed building does not meet the minimum lot area per dwelling unit required pursuant to Sections 23-22 and 35-40 of the Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on May 20, 2003, after due notice by publication in *The City Record*, and laid over to June 24, 2003, August 5, 2003, and then to September 30, 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 a two-story and cellar mixed-use building with commercial use on the ground floor and residential use on the second floor, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space ratio, and lot area per dwelling unit, contrary to Z.R. §§35-32, 23-141, 23-22 and 35-40; and

WHEREAS, this application is one of four applications filed by the applicant, seeking to develop four mixed-use buildings located at 78-01 thru 78-07 Myrtle Avenue, on Block 3827, Lots 47, 48, 49, and 50; and

WHEREAS, the subject parcel is irregularly shaped

78-07 Myrtle Avenue, between 78th and 79th Streets, (58.30' east of 78th Street), Block 3827, Lot 47, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 13, 2002, acting on Application No. 401397010 reads:

- “1. Proposed total floor area of the building exceeds the maximum permitted for a mixed building and is therefore contrary to Section 35-32 of the Zoning Resolution.
2. Proposed lot coverage of residential portion of the building exceeds the maximum lot coverage permitted by Section 23-141 of the Zoning Resolution.

and measures 20' by 88'5", with a total lot area of 1807.1 square feet, and is located in a C1-2 overlay within an R5 district on the north east corner of Myrtle Avenue and 78th Street; and

WHEREAS, the subject property is currently improved with a two-story and cellar building with a total floor area of 3,124 square feet, containing two residential dwellings on the second floor, medical offices on the first floor, and storage and boiler rooms in the cellar; and

WHEREAS, the owner proposes a two-story and cellar mixed use building containing two single-family residential dwellings on the second floor, Use Group 4 medical offices on the first floor, and accessory storage for the medical offices in the cellar; and

WHEREAS, the applicant asserts that the subject property is very narrow and has an irregular shape, which make a complying development difficult, thus posing an unnecessary hardship on the owner; and

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, the evidence in the record, including a feasibility study, shows that a complying development would not yield a reasonable rate of return; and

WHEREAS, the record indicates that the surrounding area consists largely of residential uses mixed with some retail uses; and

WHEREAS, therefore, Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development

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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 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 R5 zoning district with a C1-2 commercial overlay, a two-

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, September 30, 2003.

324-02-BZ

CEQR #03-BSA-071K

APPLICANT - Law Office of Howard Goldman, PLLC, for Henry Weinstein, owner; 752 Pacific LLC, lessee.

SUBJECT - Application October 31, 2002 - under Z.R. §72-21 to permit the proposed conversion of a vacant industrial building into a forty-nine unit residential building, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 752 Pacific Street, between Carlton and Underhill Avenues, Block 1129, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES -

For Applicant: Chris Wright.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

Adopted by the Board of Standards and Appeals, September 30, 2003.

story and cellar mixed use building with commercial use on the ground floor and residential use on the second floor, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space ratio, and lot area per dwelling unit, contrary to Z.R. §35-32, §23-141, §23-22 and §35-40, *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 15, 2002"- (3) sheets, "September 2, 2003"- (1) sheet and "September 23, 2003"- (2) 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 where applicable, the proposed building shall comply with the requirements of Local Law 58/87;

THAT Lots 49 and 50 of Block 3827 share common exits;

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;

377-02-BZ

CEQR #03-BSA-117K

APPLICANT - Sheldon Lobel, P.C., for Rabbi Naftali Babad, owner; Cong. Kahal Tarnopol (long term lessee).

SUBJECT - Application December 31, 2002- under Z.R. §72-21 to permit in an R5 zoning district, the merger and expansion of a proposed community facility building, with an accessory Rabbi's quarters, which does not comply with the zoning requirements for floor area ratio, side yards, and rear yard, contrary to Z.R. §§24-35, 24-36, and 24-161.

PREMISES AFFECTED - 165 Parkville Avenue, north side, 198' west of Ocean Parkway, Block 5423, Lots 60 and 61, 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, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 26, 2003, acting on Application No. 301340582 reads:

1. Proposed plans are contrary to Z.R. 24-35 in that the proposed side yard is less than 8 feet.
2. Proposed plans are contrary to Z.R. 24-36 in

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that the proposed rear yard is less than 30 feet.

3. Proposed plans are contrary to Z.R. 24-161 in that the proposed floor area ratio is greater than 2.0 permitted.”; and

WHEREAS, a public hearing was held on this application on June 24, 2003 after due notice by publication in *The City Record*, and laid over to July 15, 2003, August 12, 2003 then to September 30, 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, Community Board 14 voted in support of the subject application on March 13, 2003; and

WHEREAS, this is an application under Z.R. §72-21, to permit the merger and expansion of 2 two-story and basement buildings to become 1 three-story building with cellar and basement, to be occupied as a synagogue, with an accessory residence for the Rabbi (the “proposed building”); and

WHEREAS, the applicant asserts that the programmatic needs and continued growth of the synagogue depend on approval of the proposed building, as the existing facilities do not have enough room for the congregation and do not provide the appropriate atmosphere for religious practice; and

WHEREAS, the applicant further asserts that the existing building’s space limitations lead to over-crowding, a lack of space for women on the high holidays, and does not meet the programmatic needs of the congregation, and therefore creates a unique burden on the congregation, leading to practical difficulties in strictly complying with certain bulk regulations of the Z.R.; and

WHEREAS, the applicant contends that the larger design of the proposed building will accommodate the growth of the congregation, and provide a suitable religious environment; and

WHEREAS, the Board finds that the programmatic needs of the proposed community facility, when combined with the physical limitations of the existing buildings, create an unnecessary hardship with strict compliance with the provisions of the Zoning Resolution, and that the relief requested is in furtherance of the applicant’s not-for-profit status; and

WHEREAS, the Board finds that a reasonable return finding is inapplicable to this application as the intended user of the proposed building is a not-for-profit religious organization; and

WHEREAS, the record indicates that the surrounding area consists of dwellings, health centers, a garage, a factory, and a police station; and

WHEREAS, therefore, 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 proposed building, a community facility, will have a floor area ratio of 2.17%, which does not comply with Z.R. §24-161, no side yards, which does not comply with Z.R. §24-35, and no rear yards, which does not comply with Z.R. §24-36; and

WHEREAS, the subject parcel is approximately 42 feet wide and the existing buildings extend the width of the lot, with no existing side yards; and

WHEREAS, the subject property is within an R5 zoning district and is currently improved with 2 two-story and cellar buildings with a total floor area of 6,885 square feet, containing two residential dwellings on the first and second floors of each building, a synagogue and Rabbi’s study in the basement of one building, and a recreation room in the basement of the other building; and

WHEREAS, the applicant proposes the combination of the two buildings, the addition of a cellar, containing a boiler room, bathrooms and a mikva, the extension of the basement, containing the synagogue, the reduction in size of the first floor, containing synagogue area and offices, the change in use of the second floor to accessory dwelling for the Rabbi, and the addition of the third level to contain more space for the Rabbi’s dwelling; 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 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 R5 zoning district, the merger and expansion of a proposed community facility building, with an accessory Rabbi’s quarters, which does not comply with the zoning requirements for floor area ratio, side yards, and rear yard, contrary to Z.R. §§24-35, 24-36, and 24-161, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received June 16, 2003”-(5) sheets, “July 7, 2003”-(2) sheets, “July 22, 2003”-(2) sheets and “September 23, 2003”-(2) 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;

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

THAT where applicable, the proposed building will comply with the requirements of Local Law 58/87;

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, September 30, 2003.

140-03-BZ

WHEREAS, the decision of the Borough Commissioner, dated April 29, 2003 acting on Application No. 500602154 reads:

- “1. PROPOSED OFFICE BUILDING USE GROUP 6 IS NOT PERMITTED AS-OF-RIGHT IN A RESIDENTIAL R3-2 ZONE, THEREFORE IS REFERRED TO THE BOARD OF STANDARDS & APPEALS FOR A VARIANCE . Sec. 22-00 Z.R.
2. THERE ARE NO BULK, PARKING, AND SIGN REGULATIONS FOR AN OFFICE BUILDING USE GROUP 6 IN A RESIDENTIAL R3-2 ZONE”;

WHEREAS, a public hearing was held on this application on September 9, 2003 after due notice by publication in The City Record and laid over to September 30, 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 and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R3-2 zoning district, the proposed office building, Use Group 6, contrary to Z.R. §22-00; and

WHEREAS, the premises is located on an oversized zoning lot containing 19,688 square feet of lot area, currently developed with a one-story one-family dwelling with an attached garage, located adjacent to a mapped park, as well as commercial developments; and

WHEREAS, the record indicates the subject property is burdened in that it has sanitary sewers only on Eaton Place, approximately 650 feet to the north, and the applicant notes that the lack of sanitary sewers makes subdivision of the property impracticable because the Department of Environmental Protection requires that any newly created lots not fronting on sewers be a minimum of 10,000 square feet with a street frontage of at least 100

CEQR #03-BSA-178R

APPLICANT - Lipton Associates, for Lipton Real Estate Corp., owner.

SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit in an R3-2 zoning district, the proposed office building, Use Group 6, contrary to Z.R. §22-00.

PREMISES AFFECTED - 1855 Richmond Avenue, east side, 650.06' south of Eton Place, Block 2030, Lot 48, Borough of Staten Island.

COMMUNITY BOARD #2S.I.

APPEARANCES -

For Applicant: Mark Lipton.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

feet; and

WHEREAS, the applicant represents that the frontage along Richmond Avenue, a heavily trafficked arterial roadway, is only 100 feet, therefore only one zoning lot can be created; and

WHEREAS, the existing home was developed in the late 1930s, prior to the widening of Richmond Avenue and the applicant notes that Richmond Avenue has transformed from a main thoroughfare to a commercial arterial roadway, with professional offices on both sides developed either as-of-right or by Board variance; and

WHEREAS, the record indicates that the subject zoning lot is burdened by an irregular shape, a history of development with an existing obsolete structure, and is surrounded by non-conforming adjacent uses; and

WHEREAS, therefore, the aforementioned unique physical conditions, namely the oversized lot, developed with an obsolete non-complying one-family one-story detached dwelling, not fronting on a street with sewers, adjacent to a park and commercially developed non-conforming lots, makes development of the site with a conforming R3-2 use impractical and creates an unnecessary hardship in developing the site in conformity with the current zoning; and

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

WHEREAS, the Board notes that the instant proposal creates a mixture of residential, retail, and office uses; and

WHEREAS, the record indicates that the proposed parking structure will lessen any potential congestion generated by the introduction of the subject use; and

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

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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 application is the minimum variance necessary to afford the owner relief; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and 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

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, September 30, 2003.

149-03-BZ

CEQR #03-BSA-187Q

APPLICANT - Petraro & Jones, LLP, for Angelo Stratigakis, owner.

SUBJECT - Application May 14, 2003 - under Z.R. §72-21, to permit in an R5 zoning district, the erection of a three-story, three-family dwelling, Use Group 2, which creates non-compliances with respect to floor area ratio, open space ratio lot coverage, front yard and building height contrary to Z.R. §§23-141(c), 23-45, 23-46 and 23-631(d) and (e).

PREMISES AFFECTED - 23-08 Sound Avenue, at the intersection of Sound and 42nd Streets, and 23rd Road, Block 781, lot 46, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Patrick Jones.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated September 9, 2003, acting on NB Application No. 401606393, reads:

“1. PROPOSED FLOOR AREA EXCEEDS

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 R3-2 zoning district, the proposed office building, Use Group 6, contrary to Z.R. §22-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received April 29, 2003”-(7) 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 where applicable, the proposed building will comply with the requirements of Local Law 58/87;

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

- THAT ALLOWED BY SEC. 23-141(c)
- 2. PROPOSED OPEN SPACE RATIOS {sic} DEFICIENT PER 23-141(c)
- 3. PROPOSED LOT COVERAGE EXCEEDS THAT ALLOWED BY 23-141 (c)
- 4. PROPOSED BUILDING DOES NOT PROVIDE THE FRONT YARDS REQUIRED BY SECTION 23-45
- 5. PROPOSED BUILDING HEIGHT DOES NOT COMPLY WITH SECTION 23-631(d & e); and

WHEREAS, a public hearing was held on this application on September 9, 2003 after due notice by publication in *The City Record*, and then laid over to September 30, 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 R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-45, 23-46 and 23-631(d) and (e); and

WHEREAS, the subject zoning lot is triangular and wedge shaped with lot lines of 52 feet, 87 feet and 101 feet containing a lot area of approximately 2,239 square feet with frontages along Sound Avenue, 23rd Road, and 42nd Street; and

WHEREAS, the record indicates that the proposed dwelling will replace an existing, vacant, one-story, one-family, frame, siding-clad, flat roof structure; and

WHEREAS, the proposed dwelling will contain brick facing with a combined gable and pitched roof and will feature an integrated garage with capacity for two vehicles, which the applicant notes complies with the parking requirements for a three family dwelling; and

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WHEREAS, the aforementioned unique physical conditions, namely the triangular and wedge shape of the lot with frontages on three different streets, makes its occupancy for a complying R5 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

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 objection cited, under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling, Use Group 2, which creates non-compliances with respect to floor area ratio, open space ratio lot coverage, front yard and building height contrary to Z.R. §§23-141(c), 23-45, 23-46 and 23-631(d) and (e); 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 16, 2003"- (10) 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 where applicable, the proposed building will comply with the requirements of Local Law 58/87;

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, September 30, 2003.

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.

CEQR #03-BSA-197K

APPLICANT - The Law Office of Fredrick A. Becker, for Abraham Gutwein and Shirley Gutwein, owners.

SUBJECT - Application May 28, 2003 - under Z.R. §73-6223 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 and open space ratio and is contrary to Z.R. §23-141.

PREMISES AFFECTED - 2615 Avenue "N", north side, 40' west of East 27th Street, Block 7662, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated May 9, 2003, acting on Application No. 301534711 reads:

“THE PROPOSED ENLARGEMENT OF THE EXISTING ONE FAMILY RESIDENCE IN AN R2 ZONING DISTRICT :

1. CREATES NON-COMPLIANCE WITH RESPECT TO FLOOR AREA RATION (sic) BY EXCEEDING THE ALLOWABLE FLOOR AREA RATIO AND IS CONTRARY TO SECTION 23-141 OF THE ZONING RESOLUTION.
2. CREATES NON-COMPLIANCE WITH RESPECT TO THE OPEN SPACE RATIO AND IS CONTRARY TO SECTION 23-141 OF THE ZONING RESOLUTION.”; and

WHEREAS, a public hearing was held on this application on August 5, 2003 and then laid over to September 30, 2003 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the

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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 and open space ratio, contrary to Z.R. §23-141; 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 *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 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 and open space ratio and is contrary to Z.R. §23-141, *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 28, 2003"- (7) sheets and "July 11, 2003"-(4) sheets; 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 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, September 30, 2003.

182-03-BZ

CEQR #03-BSA-198K

APPLICANT - Eric Palatnik, P.C., for Solomon Scharf, owner.

SUBJECT - Application May 29, 2003 - under Z.R. §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 and rear yard, contrary to Z.R. §§23-141

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 perimeter wall height will comply with all 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.

and 23-47.

PREMISES AFFECTED - 1238 East 24th Street, between Avenues "L" and "M", Block 7641, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated May 9, 2003, acting on Application No. 301539360 reads:

"Obtain special permit approval from the Board of Standards and Appeals for the following objections:

1. Proposed floor area contrary to zr 23-141.
2. Proposed open space ration contrary to zr 23-141.
3. Proposed rear yard contrary to zr 23-47."; and

WHEREAS, a public hearing was held on this application on September 9, 2003 and then laid over to September 30, 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, and rear yard contrary to Z.R. §§23-141 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 perimeter wall height will comply with

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all 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

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

THAT where applicable, the proposed building will comply with the requirements of Local Law 58/87;

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, September 30, 2003.

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

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Chris Wright.

ACTION OF THE BOARD - Laid over to October 21, 2003, at 1:30 P.M., for continued hearing.

374-02-BZ

APPLICANT - Salans, for Long Island Jewish Medical Center, owner.

SUBJECT - Application December 30, 2002 - under Z.R. §§73-481 and 73-49 to permit the proposed 1,660 space parking garage, located within the medical center campus, in an R3-2 zoning district, which exceeds the number of spaces permitted by

floor area ratio, open space ratio and rear yard, contrary to Z.R. §§23-141 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 September 16, 2003"-(6) sheets; 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 in the premises shall be removed within 48 hours;

Z.R. §§25-12 and 25-13, and also will have rooftop parking that is only permitted pursuant to Z.R. §25-11, which requires a special permit as per Z.R. §73-481 and §73-49.

PREMISES AFFECTED - 267-20 74th Avenue, block bounded by 74th and 76th Avenues, also 263rd Street and the Queens/Nassau Border, Block 8520, Lot 2, and Block 8489, Lots 50, 95, 100 and 120, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Martin Baker.

For Opposition: Richard C. Hellenbrecht.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar and Commissioner Miele3

Negative:0

Abstain: Commissioner Calendio.....1

ACTION OF THE BOARD - Laid over to October 21, 2003, at 1:30 P.M., for decision, hearing closed.

36-03-BZ

APPLICANT - Salans, for Long Island Jewish Medical Center, owner.

SUBJECT - Application January 29, 2003 - under Z.R. §73-481 to permit the proposed increase in the total number of parking spaces, through the use of attended parking, at an accessory parking garage, for an existing medical center, which requires a special permit as per Z.R. §73-481.

PREMISES AFFECTED - 271-17 76th Avenue, located on a block bounded by 76th Avenue, 74th Avenue, and the Queens/Nassau county border, Block 8520, Lot 2, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Martin Baker.

For Opposition: Richard C. Hellenbrecht.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar and Commissioner Miele3

Negative:0

Abstain: Commissioner Calendio.....1

ACTION OF THE BOARD - Laid over to October 21, 2003, at 1:30 P.M., for decision, hearing closed.

40-03-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC, for Ben

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Gardner, owner.

SUBJECT - Application January 30, 2003 - under Z.R. § 72-21 to permit the proposed construction of a twenty-seven unit residential complex, in a three story building, with retail use on the ground floor, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124-20 Jamaica Avenue, corner of 125th Street, Block 9333, Lot 7, Borough of Queens.

Negative:0

ACTION OF THE BOARD - Laid over to October 21, 2003, at 1:30 P.M., for decision, hearing closed.

44-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Josephine Valletta, owner; Nissan Lift of New York, lessee.

SUBJECT - Application February 7, 2003 - under Z.R. §72-21 to permit the proposed enlargement, both vertically and horizontally of an existing non-conforming one story commercial use, Use Group 16, located in an R5 zoning district, which is contrary to Z.R. §54-30.

PREMISES AFFECTED - 97-20 99th Street, 100' south of 97th Avenue, between 97th and 101st Avenues, Block 9075, Lot 32, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES -

For Applicant: Elisa Hwu.

ACTION OF THE BOARD - Laid over to October 21, 2003, at 1:30 P.M., for continued hearing.

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 -

For Applicant: Mitchell Ross.

ACTION OF THE BOARD - Laid over to October 28, 2003, at 1:30 P.M., for continued hearing.

97-03-BZ-98-03-BZ

APPLICANT - Agusta & Ross, for Coconut International Realty Corp./Blue Sky, Inc., owner.

SUBJECT - Application March 27, 2003 - under Z.R. §72-21 to permit the proposed erection of a multiple dwelling, Use Group 2, upon a vacant irregularly shaped zoning lot, located in an R7-1/M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED -

461 Flushing Avenue, northside, 72' east of Bedford

COMMUNITY BOARD #9Q

APPEARANCES -

For Applicant: Howard Goldman.

For Opposition: Paul Hundermank, Maria Ferrara and Steve Motamued.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Avenue, Block 2263, Lot 86, Borough of Brooklyn.

463 Flushing Avenue, northside, 124'10" east of Bedford

Avenue, Block 2263, Lot 84, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Mitchell Ross.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

ACTION OF THE BOARD - Laid over to October 21, 2003, at 1:30 P.M., for decision, hearing closed.

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.

ACTION OF THE BOARD - Laid over to October 28, 2003, at 1:30 P.M., for continued hearing.

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 28th 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: Frances R. Angelino, Breck Perkins, Patricia Kirshmer and James Cookee.

For Opposition: Michael Kwartler and Pamela Kraft.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner

MINUTES

Caliendo and Commissioner Miele4
Negative:0

ACTION OF THE BOARD - Laid over to October 28, 2003, at 1:30 P.M., for decision, hearing closed.

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 and A.J. Loeffzoz.

ACTION OF THE BOARD - Laid over to October 28, 2003, at 1:30 P.M., for continued hearing.

187-03-BZ

APPLICANT - Marvin B. Mitzner, Esq. of Fischbein Badillo Wagner Harding, for Robert Hollander and Steve Abrahms, owners.

SUBJECT - Application June 6, 2003 - under Z.R. §73-125 to permit the reestablishment of an expired special permit, previously granted under Cal. No. 142-88-BZ, which permitted medical offices, Use Group 4, that exceeded 1,500 square feet of floor area in an R2 zoning district.

PREMISES AFFECTED - 214-02 24th Avenue, southeast corner of Bell Boulevard, Block 6001, Lot 55, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Marvin Mitzner.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

ACTION OF THE BOARD - Laid over to October 21, 2003, at 1:30 P.M., for decision, hearing closed.

189-03-BZ

APPLICANT - Eric Palatnik, P.C., for 830 East 233rd Street Corp, owner; BP Products North America, lessee.

SUBJECT - Application June 6, 2003 - under Z.R. §73-211 to permit the continued use of the premises as a gasoline service station, the alteration of the existing signage, and the legalization of the enlargement of the zoning lot on which the existing station rests, is contrary to §32-35.

PREMISES AFFECTED - 836 East 233rd Street, northwest corner of Bussing Avenue, Block 4857, Lots 44 and 41, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO REOPEN HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

ACTION OF THE BOARD - Laid over to October 21, 2003, at 1:30 P.M., for continued hearing.

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 175th Street and 149th Road, Block 13381, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Howard Hornstein, Peter Geis, Denise Scaravella, Harold Smith and Frank Martarella.

For Opposition: Richard C. Hellenbrecht, James C. Gadsden, Joseph S. Goldbloom, Patricia H. Hagan and Ella Smith.

ACTION OF THE BOARD - Laid over to October 28, 2003, at 1:30 P.M., for continued hearing.

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

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Howard Hornstein, Peter Geis, Denise Scaravella, Harold Smith and Frank Martarella.

For Opposition: Richard C. Hellenbrecht, James C. Gadsden, Joseph S. Goldbloom, Patricia H. Hagan and Ella Smith.

ACTION OF THE BOARD - Laid over to October 28, 2003, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

MINUTES

Adjourned: 4:00 P.M.