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# BULLETIN

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

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Volume 88, No. 4

January 23, 2003

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### DIRECTORY

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**SATISH BABBAR**, *Vice-Chair*

**MITCHELL KORBEBY**

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

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**Pasquale Pacifico**, *Executive Director*

**Roy Starrin**, *Deputy Director*

*Vacant - Counsel*

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543-91-BZ	8605-8613 Fort Hamilton Parkway, Brooklyn
25-95-BZ	2881 Nostrand Avenue, Brooklyn
134-97-BZ	2467 Arthur Avenue, Bronx
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494-55-BZ	67-69 Avenue U, Brooklyn
1043-80-BZ	1680/88 Albany Avenue, a/k/a 4024 Marginal Street, Brooklyn
181-90-BZ	482/486 College Avenue, Bronx
32-92-BZ	72-06 Parsons Boulevard, a/k/a 157-10 72 <sup>nd</sup> Avenue, Queens
186-98-BZ	1811 47 <sup>th</sup> Avenue, a/k/a 4613 18 <sup>th</sup> Avenue, Brooklyn
134-99-BZ	18 West 89 <sup>th</sup> Street, a/k/a 17-19 West 88 <sup>th</sup> Street, Manhattan
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266-02-BZ	181 Jaffray Street, Brooklyn
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386-01-BZ	223 84 <sup>th</sup> Street, Brooklyn
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603-49-BZ	34-14 31 <sup>st</sup> Street, Queens
286-86-BZ, Vol. II	100 Seventh Avenue, Brooklyn
118-01-BZ	1845 Richmond Avenue, Staten Island

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# DOCKET

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New Case Filed Up to January 14, 2003

**2-03-BZ** B.Q. 37 Bedford Avenue, east side, 150' south of Bayside, Block 16350, Part of Lot 300, Borough of Queens. Applic.#401590444. Proposed construction of a new second floor, and an upgrading of the septic system for a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**3-03-BZ** B.BK. 50 Dover Street, between Hampton Avenue and Shore Boulevard, Block 8729, Lot 27, Borough of Brooklyn. Alt. #301474054. Proposed enlargement of an existing single family residence, located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, perimeter wall height and building height, is contrary to Z.R. §23-141, §23-47 and §23-631.

**COMMUNITY BOARD #15BK**

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**4-03-A** B.Q. 502 Browns Boulevard, near Hillside Avenue, Block 16350, Lot 400, Borough of Queens. Applic. #401570938. Proposed reconstruction and enlargement to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**5-03-BZ** B.BK. 2276 86<sup>th</sup> Street, south side, 36'-8'' west of 23<sup>rd</sup> Avenue, Block 6383, Lot 44, Borough of Brooklyn. Applic. #301282270. The legalization of a one story enlargement at the rear of the first floor of an existing two story mixed use building, and the erection of a small enlargement by the notch, which increases the degree of non-compliance with respect to floor area ratio, is contrary to Z.R. §§35-30 and 54-31.

**COMMUNITY BOARD #11BK**

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**6-03-A** B.Q. 150-03 Waterside Court, 150<sup>th</sup> Street, west of Third Avenue, Block 4506, Lot 2, Borough of Queens. Applic. #401501585. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**7-03-A** B.Q. 150-07 Waterside Court, 150<sup>th</sup> Street, west of Third Avenue, Block 4506, Lot 3, Borough of Queens. Applic. #401501629. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**8-03-A** B.Q. 150-11 Waterside Court, 150<sup>th</sup> Street west of Third Avenue, Block 4506, Lot 4, Borough of Queens. Applic. #401501638. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**9-03-A** B.Q. 150-15 Waterside Court, 150<sup>th</sup> Street west of Third Avenue, Block 4506, Lot 5, Borough of Queens. Applic. #401501647. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**10-03-A** B.Q. 150-19 Waterside Court, 150<sup>th</sup> Street west of Third Avenue, Block 4506, Lot 6, Borough of Queens. Applic. #401501656. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**11-03-A** B.Q. 150-23 Waterside Court, 150<sup>th</sup> Street west of Third Avenue, Block 4506, Lot 7, Borough of Queens. Applic. #401501665. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**12-03-A** B.Q. 150-12 Waterside Court, 150<sup>th</sup> Street west of Third Avenue, Block 4506, Lot 15, Borough of Queens. Applic. #401501594. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**13-03-A** B.Q. 150-16 Waterside Court, 150<sup>th</sup> Street west of Third Avenue, Block 4506, Lot 14, Borough of Queens. Applic. #401501601. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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# CALENDAR

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**14-03-A** B.Q. 150-20 Waterside Court, 150<sup>th</sup> Street west of Third Avenue, Block 4506, Lot 13, Borough of Queens. Applic. #401501610. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**15-03-A** B.Q. 150-56 Powells Cove Boulevard, west of the intersection of Third Avenue and Powells Cove Boulevard, Block 4506, Lot 8, Borough of Queens. Applic. #401526247. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**16-03-A** B.Q. 150-60 Powells Cove Boulevard, west of the intersection of Third Avenue and Powells Cove Boulevard, Block 4506, Lot 9, Borough of Queens. Applic. #401526256. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**17-03-A** B.Q. 150-64 Powells Cove Boulevard, west of the intersection of Third Avenue and Powells Cove Boulevard, Block 4506, Lot 11, Borough of Queens. Applic. #401526265. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**18-03-A** B.Q. 150-68 Powells Cove Boulevard, west of the intersection of Third Avenue and Powells Cove Boulevard, Block 4506, Lot 12, Borough of Queens. Applic. #401526238. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**19-03-A** B.Q. 150-79 Powells Cove Boulevard, west of the intersection of Third Avenue and Powells Cove Boulevard, Block 4487, Lot 71, Borough of Queens. Applic. #401526005. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**20-03-A** B.Q. 150-81 Powells Cove Boulevard, west of the intersection of Third Avenue and Powells Cove Boulevard, Block 4487, Lot 72, Borough of Queens. Applic. #401526014. Proposed construction of a one family dwelling, not fronting on a legally mapped

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

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**21-03-A** B.Q. 150-83 Powells Cove Boulevard, west of the intersection of Third Avenue and Powells Cove Boulevard, Block 4487, Lot 73, Borough of Queens. Applic. #401526023. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**22-03-A** B.Q. 150-85 Powells Cove Boulevard, west of the intersection of Third Avenue and Powells Cove Boulevard, Block 4487, Lot 74, Borough of Queens. Applic. #401526032. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**23-03-A** B.Q. 150-87 Powells Cove Boulevard, west of the intersection of Third Avenue and Powells Cove Boulevard, Block 4487, Lot 75, Borough of Queens. Applic. #401526041. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**24-03-BZ** B.Q. 178-02/08 Union Turnpike, southwest corner of Surrey Place, Block 7227, Lot 29, Borough of Queens. Alt. #1205/54. The reestablishment of an expired variance, previously granted by the Board under Cal. No. 624-39-BZ, which permitted a gasoline service station and an automobile repair facility, Use Group 16, in a C1-2 within an R2 zoning district.

## COMMUNITY BOARD #8Q

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

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# CALENDAR

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**FEBRUARY 11, 2003, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday morning*, February 11, 2003, at 10 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## **SPECIAL ORDER CALENDAR**

### **426-54-BZ**

APPLICANT - Vassalotti Associates Architects, LLP, for Howard Levine, owner.

SUBJECT - Application April 4, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired April 22, 2000 and Application November 12, 2002 for an amendment to the resolution.

PREMISES AFFECTED - 78-11 Linden Boulevard, northwest corner of Linden Boulevard and 79th Street, Block 11376, Lot 23, Borough of Queens.

**COMMUNITY BOARD #10Q**

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### **421-62-BZ**

APPLICANT - Omer Fenik Architects, for Gotham Towne House Owners Corp., owner; Rapid Park Industries, lessee

SUBJECT - Application August 22, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expires November 20, 2003.

PREMISES AFFECTED - 153 East 57th Street, intersection of East 57th Street, 120' west of Third Avenue, Block 1312, Lot 28, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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### **830-62-BZ**

APPLICANT - Omer Fenik Architects, for 157 East 57th Street, LLC, owner; Rapid Park Industries, lessee.

SUBJECT - Application August 22, 2002 - reopening for an extension of term of variance which expired November 29, 2002.

PREMISES AFFECTED - 157 East 57th Street, northwest corner of Third Avenue and East 57th Street, Block 1312, Lot 33, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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PREMISES AFFECTED - 320 West 84th Street, between Riverside Drive and West End Avenue, Block 1245, Lot 86, Borough of Manhattan.

**COMMUNITY BOARD #7M**

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**APPEALS CALENDAR**

### **2-03-A**

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc., owner; Steven & Denise Domenech, lessees.

SUBJECT - Application January 8, 2002 - proposed construction of a new second floor and upgrade of the septic system for a home which lies within an R4 district, but does not front on a mapped street which is contrary to Article 3, Section 36(2) of the General City Law and Section 27-291 of the Building Code.

PREMISES AFFECTED - 37 Bedford Avenue, east side 150' south of Bayside, Block 16350, Part of Lot 300, Borough of Queens.

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**FEBRUARY 11, 2003, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, February 11, 2003, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## **ZONING CALENDAR**

### **120-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Abraham Lokshin, owner; Dolphin Fitness, Inc., lessee.

SUBJECT - Application April 15, 2002 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, Use Group 9, located in the cellar of a six story building, which requires a special permit as per Z.R. §32-10.

PREMISES AFFECTED - 42 Avenue "A", northeast corner of East Third Street, Block 399, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #3M**

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### **223-02-BZ & 224-02-A**

APPLICANT - Sheldon Lobel, P.C., for 320 West 84th Street, Corp, owner.

SUBJECT - Application August 6, 2002 - under Z.R. §73-621 to permit the legalization of an existing rental apartment in the cellar of a six story building, located in an R8B zoning district, which increases the degree of non-compliance with respect to floor area ratio and open space ratio, which is contrary to Z.R. §23-142 and §54-31; and does not comply with §§34.6 and 216 of the Multiple Dwelling Law and § 27-2082 and 27-2085 of the Housing Maintenance Code.

### **228-01-BZ**

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

SUBJECT - Application Remanded back to BSA as per Supreme Court Decision

PREMISES AFFECTED - 1153 Grand Concourse, northwest

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# CALENDAR

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corner of the Grand Concourse and McClellan Street, Block 2463, Lot 21, Borough of The Bronx.

**COMMUNITY BOARD #4BX**

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**244-02-BZ & 245-02-BZ**

APPLICANT - Fredrick A. Becker, Esq., for 361 West 34th Street Corp., owner; B & B Gym, Inc., lessee.

SUBJECT - Application September 9, 2002 - under Z.R. §73-36 to permit the proposed physical culture establishment, on the second floor of a four story commercial building, to be located in two separate buildings with a convenience opening, requires a special permit as per Z.R. §32-00.

PREMISES AFFECTED - 365/67 West 34th Street, north side, 58.6' east of Ninth Avenue, Block 758, Lot 5, Borough of Manhattan.

373 West 34th Street, northwest corner of Ninth Avenue, Block 758, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #4M**

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**322-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Marylena Auto Repair Inc., owner.

SUBJECT - Application October 29, 2002 - under Z.R. §73-211 to permit the reestablishment of an expired variance, previously granted under Cal. No. 80-88-BZ, which permitted an automotive service station in a C2-2 zoning district, also the proposed addition of a new steel canopy, concrete dispenser island with dispensers and doublewall fiberglass tanks, which is contrary to Z.R. §32-35.

PREMISES AFFECTED - 1840 Richmond Terrace, between Clove Road and Bodine Street, Block 201, Lot 32, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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**323-02-BZ**

APPLICANT - Friedman & Gotbaum, LLP, by Irving J. Gotbaum, Esq., for 783 W. Street Corp./Blansig Realty Corp., c/o Kenneth B. Frankel, owner; Sean MacPherson, contract vendee.

SUBJECT - Application October 29, 2002 - under Z.R. §72-21 to

**REGULAR MEETING**

**TUESDAY MORNING, JANUARY 14, 2003**

**10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, November 26, 2002, were approved as printed in the Bulletin of December 5, 2002, Volume

permit the proposed conversion of an existing commercial building, to a single family residence, Use Group 2, located in a C8-4 zoning district, is contrary to Z.R. §§15-021 & 32-10.

PREMISES AFFECTED - 783 Washington Street, east side, corner of Washington and Jane Streets, Block 642, Lot 38. Borough of Manhattan.

**COMMUNITY BOARD #2M**

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**351-02-BZ**

APPLICANT - Stadtmauer Bailkin, LLP by Steven Sinacori, for 33-11 Associates, owner; Operative Cake Company, lessee.

SUBJECT - Application December 3, 2002 - under Z.R. §72-21 to permit the reestablishment of an expired variance previously granted under Cal. No. 662-69-BZ, which permitted the operation of a food warehouse and distribution facility, Use Group 17, in an R5 zoning district.

PREMISES AFFECTED - 33-55 11th Street, aka 33-41/47th 11th Street, between 33rd Road and 34th Avenue, and 11th and 12th Streets, Block 318, Lot 15, Borough of Queens.

**COMMUNITY BOARD #1Q**

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*Pasquale Pacifico, Executive Director*

87, No. 48.

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**SPECIAL ORDER CALENDAR**

**211-74-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Connaught Tower Corporation, owner.

SUBJECT - Application October 8, 2002 - reopening for an

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# MINUTES

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amendment to the resolution.

PREMISES AFFECTED - 1004-1022 Second Avenue, 300-318 East 54th Street, 301-305 and 315 East 53rd Street, east side of Second Avenue, between East 53rd and 54th Streets, Block 1346, Lots 1,49, 101, Borough of Manhattan.

## COMMUNITY BOARD #6M

### APPEARANCES -

For Applicant: Robert Flahive.

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

### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

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

### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on January 7, 2003, and laid over to January 14, 2003 for decision; and

WHEREAS, Community Board #6 has recommended approval of this application; and

WHEREAS, on July 23, 1974, the Board granted an application for the construction of a 34-story mixed building and a non-bonused open space; and

WHEREAS, the applicant now seeks to amend the resolution to permit a revision of the approved plans and to change the hours of operation for the non-bonused open space; and

WHEREAS, the applicant proposes to alter the hours of operation to:

May 1 to September 30, from 8 a.m. to 8 p.m. and  
October 1 to April 30, from 8 a.m. to 5 p.m.; and

*Resolved*, that the Board of Standards and Appeals hereby waives the Rules of Practice and Procedure and *reopens and amends* the variance pursuant to §§72-1 and 72-22, said resolution having been adopted July 23, 1974, so that as amended this portion of the resolution shall read:

“to permit alteration of the hours of operation for the non-bonused open space to:

May 1 to September 30, from 8 a.m. to 8 p.m. and  
October 1 to April 30, from 8 a.m. to 5 p.m.,*on*

*condition*

THAT the premises shall be maintained in substantial compliance with the proposed drawing submitted with the application marked “Received January 14, 2003”-(1)

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

### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

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

### THE RESOLUTION -

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance, permitting an open

sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

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

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

THAT the posted notice plaques shall contain the following language:

“This plaza is open to the public 8:00 AM - 8:00 PM (May 1 to September 30), 8:00 AM - 8:00 PM (October 1 to April 30). This plaza is required to maintain six benches and 6 primary trees. Complaints regarding this plaza may be addressed to the Executive Director of the Board of Standards and Appeals of the City of New York.”;

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

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

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

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

Adopted by the Board of Standards and Appeals, January 14, 2003.

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## 285-85-BZ

APPLICANT - Sheldon Lobel, P.C., for Henry Inselstein, owner.  
SUBJECT - Application April 4, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired April 7, 2000.

PREMISES AFFECTED - 2353-2355 Coney Island Avenue, between Avenue T and Avenue U, Block 7315, Lot 67, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES -

For Applicant: Jacalyn Fleming.

automobile sales lot, which expired on April 7, 2000; and

WHEREAS, a public hearing was held for this application on December 10, 2002, after due notice by publication in *The City Record*, and laid over to January 14, 2003 for decision; and

WHEREAS, the applicant represents that the premises is in substantial compliance with the previous BSA-approved plans.

*Resolved*, that the Board of Standards and Appeals hereby waives the Rules of Practice and Procedure and *reopens and amends* the resolution pursuant to §§72-01 and 72-22, said resolution having been adopted on January

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# MINUTES

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7, 1986, so that as amended this portion of the resolution shall read:

‘To extend the term of the variance for a period of ten (10) years from April 7, 2000, to expire on April 7, 2010; *on condition*

THAT the premises shall be maintained in substantial compliance with Board approved plans marked “Received October 1, 2002”-(2) sheets; *and on further condition*

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

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

THAT the conditions from all prior BSA resolutions for this site shall remain in effect;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB#301323397)

Adopted by the Board of Standards and Appeals, January 14, 2003.

## 543-91-BZ

APPLICANT - Fredrick A. Becker, Esq., for Barbara Salamy and Fredric Kalesh, owner; P.C. Richards and Sons, lessee.

SUBJECT - Application July 17, 2002 - reopening for an extension of term of variance which expired July 28, 2002.

PREMISES AFFECTED - 8605-8613 Fort Hamilton Parkway, east side of Fort Hamilton Parkway, 67.5" south of 86th Street, Block 6053, Lot 14, Borough of Brooklyn.

### COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Lyra Altman.

**ACTION OF THE BOARD** - Application reopened, and

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

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

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

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

term of the variance extended.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

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

THE RESOLUTION -

WHEREAS, the applicant has requested a re-opening and an extension of the term of the variance, permitting a one-story television, radio, phonograph and household appliance store, which expires on July 28, 2002; and

WHEREAS, a public hearing was held on this application on December 17, 2002, after due notice by publication in *The City Record*, and laid over to January 14, 2003 for decision; and

WHEREAS, the applicant represents that there are no substantial changes from what was previously approved by the Board;

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

*Resolved*, that the Board of Standards and Appeals, pursuant to Z.R. §72-01 and 72-22, *reopens and extends the term of the variance*, said resolution having been adopted July 28, 1992, 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 the July 28, 2002 to expire on July 28, 2012, *on condition*

THAT the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked “Received July 17, 2002”-(1) sheet, “November 13, 2002”-(1) sheet and “December 18, 2002”-(2) sheets; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

THAT the conditions from all prior BSA resolutions for this site shall remain in effect;

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

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

THAT there shall be no sale of appliances on the sidewalk

(DOB # 301364155)

Adopted by the Board of Standards and Appeals, January 14, 2003.

## 25-95-BZ

APPLICANT - Anthony M. Salvati, for Mr. Joseph Packman, owner.

SUBJECT - Application July 16, 2001 - reopening for an extension of term of variance which expired June 11, 2001.

PREMISES AFFECTED - 2881 Nostrand Avenue, Nostrand Avenue and Marine Parkway, Block 7691, Lot 19, Borough of Brooklyn.

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# MINUTES

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## COMMUNITY BOARD #18BK

### APPEARANCES -

For Applicant: Peter Hirshman.

**ACTION OF THE BOARD** - Application reopened, and term of the variance extended.

### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

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

### THE RESOLUTION -

WHEREAS, the applicant has requested a re-opening and an extension of the term of the variance, permitting a one-story enlargement to an existing non-conforming auto laundry, which expires on June 11, 2001; and

WHEREAS, a public hearing was held on this application on August 13, 2002, after due notice by publication in *The City Record*, laid over to October 1, 2002, November 19, 2002, December 17, 2002 and then to January 14, 2003 for decision; and

WHEREAS, the applicant represents that there are no substantial changes from what was previously approved by the Board;

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

*Resolved*, that the Board of Standards and Appeals, pursuant to Z.R. §§72-01 and 72-22, *reopens and extends the term of the variance*, said resolution having been adopted June 11, 1996, 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 the June 11, 2001 to expire on June 11, 2011, *on condition*

THAT the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked “Received December 10, 2002”-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

THAT the conditions from all prior BSA resolutions for this site shall remain in effect;

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

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the time to obtain a Certificate of Occupancy which expired on October 26, 2000; and

WHEREAS, a public hearing was held for this application on December 17, 2002, after due notice by publication in *The City Record*, laid over to January 14, 2003 for decision; and

WHEREAS, on October 26, 1999, an application at the subject premises was granted by the Board under §72-21 to permit the legalization of the storage of home heating oil delivery trucks and accessory office.

*Resolved*, that the Board of Standards and Appeals hereby waives the Rules of Practice and Procedure and *reopens and amends* the resolution, said resolution having been adopted on October 26, 1999, only as to the time to

removed within 48 hours;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB # 300420239)

Adopted by the Board of Standards and Appeals, January 14, 2003.

## 134-97-BZ

APPLICANT - John A. Lentini, for Thersa Garofalo, owner; Rivoli Fuel Oil Co., Inc, lessee.

SUBJECT - Application October 17, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a certificate of occupancy.

PREMISES AFFECTED - 2467 Arthur Avenue, west side of Arthur Avenue, 115.01' south of E. 189th Street, Block 3066, Lot 51, Borough of The Bronx.

## COMMUNITY BOARD #6BX

### APPEARANCES -

For Applicant: John A. Lentini.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, and time to obtain a Certificate of Occupancy extended.

### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

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

### THE RESOLUTION -

complete substantial construction and obtain a Certificate of Occupancy, so that as amended this portion of the resolution shall read:

“That a Certificate of Occupancy shall be obtained within two (2) years from the date of this grant; *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 conditions from all prior BSA resolutions for this site shall remain in effect;

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

THAT the approved plans shall be considered

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# MINUTES

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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, January 14, 2003.

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## 789-45-BZ

APPLICANT - Walter T. Gorman, P.E., for Trust Under The Will of Theodore Tannor FBO Ida Tannor, owner; Getty Properties Corp., lessee.

SUBJECT - Application June 25, 2001 - reopening for an extension of time to complete construction and to obtain a Certificate of Occupancy which expired May 27, 2001.

PREMISES AFFECTED - 56-02 to 56-20 Broadway, Block 1195, Lot 44, Borough of Queens.

### COMMUNITY BOARD #2Q

APPEARANCES -

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for decision, hearing closed.

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## 494-55-BZ

APPLICANT - Edward Lauria, P.E., for Joseph Ciervo, owner.

SUBJECT - Application November 6, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a certificate of occupancy which expired May 29, 2001.

### 181-90-BZ

APPLICANT - Philip P. Agusta, The Agusta Group, for Les-Ted, LLC, owner.

SUBJECT - Application June 5, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 8, 2001.

PREMISES AFFECTED - 482/486 College Avenue, east side 25' south of East 148th Street, Block 2329, Lot 58, Borough of The Bronx.

### COMMUNITY BOARD #1BX

APPEARANCES -

For Applicant: Nelly Bravo.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for decision, hearing closed.

PREMISES AFFECTED - 67-69 Avenue U, north side 40' East of West 11th Street, Block 7095, Lot 47, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Edward Lauria.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for decision, hearing closed.

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## 1043-80-BZ

APPLICANT - Rothkrug & Rothkrug Weinberg & Spector for RANS 1680 Building Corp., owner.

SUBJECT - Application December 17, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 3, 2000.

PREMISES AFFECTED - 1680/88 Albany Avenue a/k/a 4024 Marginal Street, southwest corner of Albany Avenue and Marginal Street, Block 7744, Lots 47, 49, 50, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Adam Rothkrug.

For Opposition: John A. Yacovone, Fire Department.

THE VOTE TO REOPEN -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

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

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## 32-92-BZ

APPLICANT - John Xikis, for John Xikis, owner.

SUBJECT - Application November 20, 2002 - reopening for an extension of time to complete construction which expired December 19, 2002.

PREMISES AFFECTED - 72-06 Parsons Boulevard, a/k/a 157-10 72nd Avenue, southwest corner of the intersection of Parsons Boulevard and 72nd Avenue, Block 6821, Lot 29, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Joseph Xikis.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

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# MINUTES

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**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for decision, hearing closed.

**186-98-BZ**

APPLICANT - Sheldon Lobel, P.C., for Cngrtn Nach Las Maharim Dchasedi Stretim, owner.

SUBJECT - Application November 1, 2002 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1811 47th Street (a/k/a 4613 18th Avenue), 47th Street and 18th Avenue, Block 5439, Lots 6 and 15, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -

For Applicant: Jacqlyn Fleming.

**ACTION OF THE BOARD** - Laid over to February 11, 2003, at 10 A.M., for continued hearing.

**134-99-BZ**

APPLICANT - New York City Board of Standards and Appeals. Martyn and Don Weston Architects, for Franklyn Holding Company, owner; The Dwight School, owner.

SUBJECT - Application Remanded back to BSA as per Supreme Court Decision.

PREMISES AFFECTED - 18 West 89th Street, aka 17-19 West 88th Street, south side, 160' west of Central Park West, Block 1202, Lots 25, and 40, Borough of Manhattan.

**COMMUNITY BOARD #7M**

APPEARANCES -

For Applicant: Don Weston, Jacalyn R. Fleming and Barbara Marks.

For Opposition: Paul A. Engelmayr.

THE VOTE TO CLOSE HEARING -

WHEREAS, this is an appeal of decision of the Borough Superintendent's April 18, 2002 decision refusing to revoke Certificate of Occupancy Number 500442675 permitting a two-family residence; and

WHEREAS, the premises is located in an R3-2 zoning district and pursuant to the subject Certificate of Occupancy houses a two-story with cellar dwelling; and

WHEREAS, on February 13, 2001, the Department of Buildings received job application Number 500442675, a self-certification application, in March 2001, the application was randomly selected for an audit which was completed on April 20, 2001 resulting in the issuance of construction permits on June 27, 2001 and the subject Certificate of Occupancy on November 21, 2001; and

WHEREAS, the appelland challenges the subject Certificate of Occupancy contending that the permits allow numerous Building Code and Zoning Resolution violations, specifically, Building Code §§27-296, 27-328(e), 27-622(a)(4) and (b)(1-4), 27-355(a)(3), 27-343(b), 27-345, 27-324(e), 27-1030 and Zoning Resolution §§23-45, 23-541, 23-48 and 23-461; and

WHEREAS, the record indicates that the above sections were reviewed and were found to be not applicable, permitted by Department of Buildings

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for decision, hearing closed.

**159-02-A**

APPLICANT - Charles L. Walker, for Charles Ferrando.

OWNER OF PREMISES: Sucuri Palevic.

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

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

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

APPEARANCES -

For Applicant: Charles L. Walker

For Administration: John Yacovone, Fire Department and Lisa Orrantia, Department of Buildings.

**ACTION OF THE BOARD** - Appeal denied.

THE VOTE TO GRANT -

Affirmative:.....0

Negative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

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

THE RESOLUTION -

discretion or in compliance; and

WHEREAS, in response to Board concerns, the Department of Buildings conducted a second audit to examine the discrepancy between the first floor elevation measurement as set forth on the approved site plan versus the final survey, whether the cellar space is really a basement under the Building Code or the Zoning Resolution, whether the as-built conditions deviate so significantly from the approved plans as to warrant revocation of the Certificate of Occupancy, whether legal side yards are provided, whether construction was permitted without a setback from the street widening line for White Plains Avenue and whether an illegal conversion of the basement has occurred; and

WHEREAS, the Department of Buildings audit revealed that the discrepancy between the first floor elevation measurement as set forth on the approved site plan versus the final survey is neither unusual nor alarming and that there is no indication that fraud or misrepresentation was committed by the surveyor; and

WHEREAS, the audit also revealed that the adjoining grade elevation as established by the site plan was at 62.44 feet, while the final survey established it at 62.7 feet and it does not matter which first floor measurement is

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utilized because using either measurement significantly more than 50% of the lowest level of the house is lower than grade level; and

WHEREAS, the appellants claim that the as-built condition deviate from the plans fails because no evidence was presented that the structural integrity or the safety of the dwelling is compromised nor was evidence presented to indicate that the window openings as built deviate from the plans in terms of size; and

WHEREAS, the appellant's contention that no adequate side yard was provided on the south side of the house fails because the final survey shows that a 4.91 to 4.96 side yard was provided which in its discretion the Department of Buildings found to be within its tolerable limits for new construction; and

WHEREAS, the Department of Buildings notes that all measurements for yards are taken from a lot line and that the lot line in question, tax lot 73 in block 2967 existed prior to December 15, 1961 and that the only lot line of the subject zoning lot separating a street from other land is the front lot line, which is the appropriate measuring point for the depth of a required front yard for this particular lot, therefore the Department found that the street widening line present on this lot, which is not a lot line, is not relevant to this measurement; and

WHEREAS, the record indicates that the Department of Buildings conducted two audits of the subject application, acted correctly and within its discretion when it issued the subject construction permits and subsequent Certificate of Occupancy; and

WHEREAS, therefore, the Board finds, that the  
40 Aviston Street, west side, 80' south of Tarrytown Avenue, Block 4686, Lot 6, Borough of Staten Island.  
42 Aviston Street, west side, 94' south of Tarrytown Avenue, Block 4686, Lot 7, Borough of Staten Island.  
44 Aviston Avenue, west side, 108' south of Tarrytown Avenue, Block 4686, Lot 8, Borough of Staten Island.  
46 Aviston Avenue, west side, 122' south of Tarrytown Avenue, Block 4686, Lot 9, Borough of Staten Island.  
48 Aviston Avenue, west side, 136' south of Tarrytown Avenue, Block 4686, Lot 10, Borough of Staten Island.  
45 Aviston Avenue, west side, 150' south of Tarrytown Avenue, Block 4686, Lot 15, Borough of Staten Island.

## **COMMUNITY BOARD #3SI**

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Administration: John A. Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to February 11, 2003, at 10 A.M., for continued hearing.

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## **235-02-A**

APPLICANT - Leventis Omatade, for Emtade Contracting Inc., owner.

SUBJECT - Application August 23, 2002 - Proposed construction of a one family dwelling, located within the bed of mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 164-47 Nadal Place, between 110th

appellant has not submitted adequate evidence to warrant the revocation of Certificate of Occupancy Number 500442675.

*Resolved*, that the decision of the Borough Superintendent dated April 18, 2002 refusing to revoke Certificate of Occupancy Number 500442675 permitting a two-family residence is hereby upheld and this appeal is denied.

Adopted by the Board of Standards and Appeals, January 14, 2003.

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## **127-02-A thru 137-02-A**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Michael Leonardi, owner.

SUBJECT - Application April 24, 2002 - Proposed construction of a one family dwelling not fronting on a legally mapped street, which is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -

30 Aviston Street, southwest corner of Tarrytown Avenue, Block 4686, Lot 1, Borough of Staten Island.  
32 Aviston Street, west side, 24' south of Tarrytown Avenue, Block 4686, Lot 2, Borough of Staten Island.  
34 Aviston Street, west side, 38' south of Tarrytown Avenue, Block 4686, Lot 3, Borough of Staten Island.  
36 Aviston Street, west side, 52' south of Tarrytown Avenue, Block 4686, Lot 4, Borough of Staten Island.  
38 Aviston Street, west side, 66' south of Tarrytown Avenue, Block 4686, Lot 5, Borough of Staten Island.

Avenue and Nadal Place, Block 10193, Lot 90, Borough of Queens.

## **COMMUNITY BOARD #12Q**

APPEARANCES -

For Applicant: Leventis Omatade.

For Opposition: John A. Yacovone, Fire Department. **ACTION OF**

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## **252-02-A**

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Martin & Kathleen Fahy, owners.

SUBJECT - Application September 17, 2002 - proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, located within the bed of mapped street and also has a private disposal system within the bed of a mapped street, which is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 466 Seabreeze Walk, east side, 4.31' south of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

## **COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Joseph A. Sherry.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to February 11, 2003, at 10 A.M., for continued hearing.

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# MINUTES

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## 253-02-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Leonard & Justin Sica, lessees.

SUBJECT - Application September 17, 2002 - proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, with a private disposal system in the bed of a private service road, is contrary to Sections 36, Article 3 of the General City Law and the Department of Buildings policy, also the interpretation of Z.R. §23-47 and it relates to rear yard requirement.

PREMISES AFFECTED - 8 Marion Walk, west side, 302.52' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Joseph A. Sherry.

For Administration: John Yacovone, Fire Department and Lisa Orrantia, Department of Buildings.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for decision, hearing closed.

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## 318-02-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Mary Malone, lessee.

SUBJECT - Application October 29, 2002 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 481 Seabreeze Walk, east side, 94.54' south of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Joseph A. Sherry.

For Administration: John Yacovone, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for decision, hearing closed.

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## 319-02-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Bruce Robertson, lessee.

SUBJECT - Application October 29, 2002 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and located partially within the bed of a

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for decision, hearing closed.

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## 272-02-A

APPLICANT - Patrick O'Brien, for Breezy Point Co-op, Inc., owner; William Hickey, lessee.

SUBJECT - Application October 29, 2002 - Proposed alteration to an existing one family dwelling, not fronting on a legally mapped street, and located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 9 Suffolk Walk, east side, 148' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

For Administration: John Yacovone, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

mapped street, also has a private disposal system in the bed of a mapped street, which is contrary to Sections 35 and 36, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 38 Graham Place, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Joseph A. Sherry.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for continued hearing.

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## 320-02-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; John 7 Laura Heesemann, lessee.

SUBJECT - Application October 29, 2002 - Proposed enlargement and alteration of an existing one family dwelling, not fronting on a legally mapped street, and located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law. PREMISES AFFECTED - 232 Roxbury Avenue, corner of Roxbury Boulevard, Block 16340, Lot 50, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Joseph A. Sherry.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for continued hearing.

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## 321-02-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Michael and Patricia Burns, lessee.

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SUBJECT - Application October 29, 2002 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street and also has a private disposal system located partially in the bed of a mapped street, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 31 Roosevelt Walk, corner of West End Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Joseph A. Sherry.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for continued hearing.

enlargement, to an existing one family dwelling, not fronting on a legally mapped street, located within the bed of a mapped street, and has an upgraded private disposal system within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law and the Department of Buildings Policy.

PREMISES AFFECTED - 29 Fulton Walk, west side, 14.68' south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Joseph A. Sherry.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for continued hearing.

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**331-02-A**

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Robert Riordan, lessee.

SUBJECT - Application October 29, 2002 - Proposed

**337-02-A**

APPLICANT - Thomas Avitabile, Architect, for Robert Schwimmer, owner.

SUBJECT - Application November 15, 2002 - Proposed community facility, located on a portion of a lot which is fully within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 1390 Richmond Terrace, southwest corner of Elm Street. Block 158, Lot 6, Borough of Staten Island.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Thomas Avitabile, Luke Nasta and Patricic Lockhart.

For Opposition: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 10 A.M., for continued hearing.

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*Pasquale Pacifico, Executive Director.*

Adjourned: 11:35 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, JANUARY 14, 2003  
2:00 P.M.**

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

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**ZONING CALENDAR**

**292-01-BZ**

**CEQR #02-BSA-036M**

APPLICANT - Anthony M. Salvati, for Peter Mosconi, owner.  
SUBJECT - Application October 18, 2001 - under Z.R. §72-21, to permit in an R7-2 zoning district, the legalization of a new dining room at the rear of an eating and drinking establishment, with accessory cellar level storage, which is contrary to Z.R. §52-22.

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PREMISES AFFECTED - 69/71 MacDougal Street, north side, 120-3 1/2" of West Houston Street, Block 526, Lots 33 and 34, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES -

For Applicant: Peter Hirshman and Peter Mosconi.

For Opposition: Doris Diether, Community Board #2.

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

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

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

**THE RESOLUTION-**

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R7-2 zoning district, the legalization of a new dining room at the rear of an eating and drinking establishment, with accessory cellar level storage, which is contrary to Z.R. §52-22; and

WHEREAS, the subject site consists of two contiguous lots each with 20' of frontage along MacDougal Street totaling 40' in length, improved with an existing non-conforming 3,817 square foot restaurant at the basement and cellar levels with three-stories of residential above; and

WHEREAS, the subject R7-2 zoning district only permits residential and community facility uses; and

WHEREAS, the record indicates that the lot has been developed with two independent structures that have been linked together with an existing rear yard extension; and

WHEREAS, the applicant represents that due to the sitting and configuration of the buildings only a small portion of the site on the southwestern edge is available for development; and

WHEREAS, the site was developed in the 1920s, prior to Certificates of Occupancy being required; and

WHEREAS, the applicant represents that a viable conforming development is not possible because the two existing contiguous structures with the existence of an open courtyard is a condition does not allow enlargement that conforms to the zoning resolution

WHEREAS, therefore, the Board finds that the aforementioned unique physical conditions, the site's history with a non-conforming eating and drinking establishment use, and site's development configuration with two independent structures linked together with an existing rear extension presents an undue hardship in developing the site with a conforming development; and

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

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

WHEREAS, therefore, the Board finds that the continuation of an eating and drinking establishment use at the subject premises will not alter the essential character of

WHEREAS, the decision of the Borough Commissioner, dated October 4, 2001 acting on Application No. 102321952 reads:

"1. The proposed enlargement of the non-conforming Use Group 6 Eating and Drinking Establishment in an R7-2 zoning district is contrary to Section 52-22 Z.R."; and

WHEREAS, a public hearing was held on this application on October 1, 2002 after due notice by publication in the *City Record*, and laid over to December 17, 2002 and then to January 14, 2003 for decision; and

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

the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

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

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

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

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

*Resolved* that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit, in an R7-2 zoning district, the legalization of a new dining room at the rear of an eating and drinking establishment, with accessory cellar level storage, which is contrary to Z.R. §52-22, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 10, 2002"-(1) sheet and "October 18, 2001"-(5) sheets; and on further condition;

THAT the term of the variance shall be limited to ten (10) years from the date of this grant expiring January 7, 2013;

THAT pursuant to Fire Department recommendations, sprinklers shall be provided and maintained in all commercial spaces;

THAT a new Certificate of Occupancy shall be obtained within one year of this grant;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

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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, January 7, 2003.

## 43-02-BZ

### CEQR #02-BSA-129M

APPLICANT - Sheldon Lobel, P.C., for George Pantelides, Affirmative:.....0  
Negative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

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

#### THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated January 14, 2002 and updated and updated without changes on February 1, 2002 acting on Alt. Applic. No. 102232344 reads:

“Proposed legalization of greenhouse type construction within 30 ft. required rear yard is contrary to section 23-47 of the Zoning Resolution and the decision of the Board of Standards and Appeals on April 27, 2001 under Calendar No.: 31-01-A.”; and

WHEREAS, a public hearing was held on this application on September 24, 2002 after due notice by publication in *The City Record*, laid over to, 2002 and then to January 14, 2003 for decision; and

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

WHEREAS, the subject premises are improved with an attached townhouse located between Park and Lexington Avenues in an R8B/LH-1A zoning district which is also part of the Upper East Side Historic District ; and

WHEREAS, the building contains four floors, a basement and cellar with a fully attached building, a non-complying portion of the rear of the subject premises protruding into the required 30' rear yard; and

WHEREAS, unlike the main portion of the subject building, the rear yard protrusion was originally only attached to the building to the east, 118 East 73<sup>rd</sup> Street, while a six foot gap existed in the western portion of the rear yard; and

WHEREAS, the Department of Buildings originally approved alteration application number 102232344 which requested to expand the rear of the building, thus allowing construction of a two story “greenhouse” in the rear of the

owner.

SUBJECT - Application February 1, 2002 - under Z.R. §72-21, to permit the legalization of an existing greenhouse-type structure and stairway platform, encroaching partially within the required rear yard which is contrary to Z.R. §23-47, and a previous decision by the Board under Cal. No. 31-01-A.

PREMISES AFFECTED - 116 East 73rd Street, south side, between Park and Lexington Avenues, Block 1407, Lot 67, Borough of Manhattan.

### COMMUNITY BOARD #8M

#### APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Howard Hornstein and Peter Geis.

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

#### THE VOTE TO GRANT -

subject premises, occupying the formerly open space that constituted the non-compliant rear yard; and

WHEREAS, the above permit allowed for construction of a “greenhouse” on the first and second floors with an open space at grade, which is the basement level; and

WHEREAS, on April 24, 2001, under Calendar Number 31-01-A the Board granted an Administrative Appeal application reversing the Department of Buildings decision to permit the construction of a two-story greenhouse enlargement, in the rear of subject premises; and

WHEREAS, Z.R. §23-47 requires that all R8 zoning districts provide at least one rear yard with a depth of at least 30' but the instant application only provides 24 feet 2 inches; and

WHEREAS, this is an application under Z.R. §72-21, to permit the legalization of an existing greenhouse-type structure and stairway platform, encroaching partially within the required rear yard contrary to Z.R. §23-47; and

WHEREAS, the applicant contends, that 2/3 of the width of the site existed prior to enactment of the 1961 Zoning Resolution, that the premises is only 16 feet 6 inches wide, that prior to construction of the greenhouse-type structure, the premises also had a non-complying outer court that is 6 feet wide, and 14 feet deep opening into the rear yard contrary to Section Z.R. 23-841; and

WHEREAS, the record indicates that the greenhouse-type structure was authorized on June 25, 1999 and construction completed on or about September 1999; and

WHEREAS, however, at the basement, first and second floors, the building extends an additional 14' into the rear yard, leaving a non-compliant rear yard only 24'-2"; and

WHEREAS, the original extension is built at a distance of six feet from the westerly lot line, less than the eight feet required by the Zoning Resolution; and

WHEREAS, Z.R. §54-21 allows for legally constructed non-complying buildings to remain indefinitely; and

WHEREAS, however, Z.R §54-31 allows for enlargements or conversions of non-complying buildings only if such enlargement or conversion does not increase the degree of non-compliance of the building or structure; and

WHEREAS, prior to the approval of the enlargement of

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the subject premises, the eastern portion of the rear yard was non-compliant, while the westernmost six feet of the yard was compliant; and

WHEREAS, however, the Department of Buildings approval permits the western portion of the rear yard to be violated, which increases the degree of non-compliance in the rear yard; and

WHEREAS, approximately 26 square feet of the required rear yard that were previously unencumbered now contain portions of the building in the first and second floors; and

WHEREAS, the Department of Buildings previously wrote that the construction reduces the degree of non-complying outer court; and

WHEREAS, therefore, the conclusion that the existence of a legal non-complying structure exempts the rear yard from all rear yard requirements is contrary to the Zoning Resolution; and

WHEREAS, the Board finds the existence of a legal non-complying structure does not obviate the general rear yard requirements and make this an outer court; and

WHEREAS, the Zoning Resolution prohibits any enlargement that creates a new non-compliance or increases the degree of non-compliance; and

WHEREAS, Z.R. §23-44(b) allows for an accessory non-commercial greenhouse to be located in required rear yards as permitted obstructions; and

WHEREAS, Z.R. §23-44(b) requires that the "greenhouse" be the lessor of one story or 14' high; and

WHEREAS, the subject structure is built above the first story (the basement) and contains two stories, one at the first floor and the other at the second floor; and

WHEREAS, the subject structure rises a full three floors above grade, reaching a height of 30', well in excess of the 14' maximum imposed by the zoning resolution; and

WHEREAS, therefore, the Board finds that the subject structure fails to meet the definition of a greenhouse as per the Zoning Resolution; and

WHEREAS, furthermore, the Board finds that the Zoning Resolution requires a 30' rear yard, prohibits an increase in the degree of non-compliance; and

WHEREAS, therefore, the Board reaffirms its prior determination that the subject enlargement is in the required rear yard, is not a permitted rear yard obstruction because it increases the degree of non-compliance within the rear yard and is more than one story and taller than 14' above grade; and

WHEREAS, the Board finds that the applicant has failed to establish that the subject enlargement constitutes a "unique physical condition" and that the cost associated with removal of the condition constitute a basis for a financial hardship; and

WHEREAS, therefore, the Board finds that the instant application does not meet the requirements of Z.R §72-21 (a) and (b); and

WHEREAS, the applicant acknowledges that the subject enlargement is illegal, but seeks relief based on equitable principles; and

WHEREAS, the record indicates that the subject

WHEREAS, the western side yard at the rear of the subject building was only six feet from the side lot line to the building wall; and

WHEREAS, the approved enlargement is primarily in that six foot wide space, taking the building wall to the side lot line; and

WHEREAS, Department of Buildings felt that the aforementioned enlargement thereby removed a non-compliant condition, the six foot side yard, and replaced it with a compliant condition, lot line construction; and

WHEREAS, the Board notes that the Zoning Resolution does not allow for the decrease in one non-complying condition to offset a new or increased non-compliance relating to another regulation; and

enlargement was erected as part of a larger renovation which commenced on or a round September 1998 and was followed by numerous complaints alleging illegal construction, a finding that was later sustained by the Board; and

WHEREAS, the evidence indicates that the subject enlargement was a condition created by the applicant; and

WHEREAS, the Board determines that the enlargement was a self-created condition and the application fails to satisfy the requirements of Z.R §72-21(d); and

WHEREAS, the Board finds that the application fails to meet the findings required under Z.R. §72-21 (a)(b)and (d) and must be denied.

*Resolved, that* the decision of the Department of Buildings, dated January 14, 2002 and updated without changes on February 1, 2002, acting on Alt. Application No. 102232344 is upheld and this application is denied.

Adopted by the Board of Standards and Appeals, January 14, 2003.

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## 87-02-BZ

### CEQR #02-BSA-160K

APPLICANT - Sheldon Lobel, P.C., for Harvinder Singh, owner.  
SUBJECT - Application March 27, 2002 - under Z.R. §72-2, to permit in an R5 zoning district to replace the existing structure with a new 4,741 square foot automotive service station with an accessory retail convenience store, installation of underground storage tanks, construction of a new overhead canopy with 5 pump islands and the installation of new signage contrary to Z.R. Section 32-00 and Calendar Number 483-69-BZ.

PREMISES AFFECTED - 8401 Flatlands Avenue, between East 83rd and East 84th Streets, Block 8005, Lots 2 and 6, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Janice Calahane.

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

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

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Negative:.....0  
Absent: Vice-Chair Babbar.....1  
THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 28, 2002 acting on Application No. 301292553 reads:

“PROPOSED EXTENSION OF A GASOLINE SERVICE STATION USE GROUP 16 IN A R5 DISTRICT PREVIOUSLY APPROVED BY THE BOARD OF STANDARDS AND APPEAL UNDER RESOLUTION 483-69-BZ IS CONTRARY TO

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, in an R5 zoning district to replace the existing structure with a new 4,741 square foot automotive service station with an accessory retail convenience store, installation of underground storage tanks, construction of a new overhead canopy with 5 pump islands and the installation of new signage contrary to Z.R. Section 32-00 and Calendar Number 483-69-BZ; and

WHEREAS, the site is located at the corner of Flatlands Avenue and East 84<sup>th</sup> Street improved with an existing automotive service station; and

WHEREAS, the record indicates that the proposal provides parking for seven vehicles in addition to spaces at the pump islands, illuminated signage of 215.09 square feet and no non-illuminated signage; and

WHEREAS, the proposal also provides a 6-foot high chain link fence with privacy slats, six-foot high evergreens to screen and buffer the adjoining 3-story apartment at block 8005 Lot 11 in addition to an existing 6-foot high opaque wood fence along the Northern property line which provides a buffer to the property at Block 8005, Lot 1; and

WHEREAS, the applicant represents that under Calendar # 483-69-BZ, in 1969, the Board permitted the rehabilitation and enlargement of the then existing automotive service station; and

WHEREAS, the site’s history of development with non-conforming Board approved uses and evidence in the record indicating that the subject site cannot house or be converted to a viable conforming use creates an unnecessary hardship in complying strictly with the Zoning Resolution; and

WHEREAS, evidence in the record, including a feasibility study and financial analysis sufficiently demonstrates that a conforming use in the entire building would not yield a reasonable return; and

WHEREAS, the record indicates that the subject property is located in an area characterized by commercial uses; and

WHEREAS, the Board notes that the site has housed non-conforming uses similar to the one proposed for over 33 years; and

WHEREAS, the record indicates that the subject proposal would meet the special permit findings of Zoning Resolution Section 73-211, and provides sufficient parking, screening, fencing and vegetation along the residential district to avoid congestion and adverse traffic and noise impacts; and

WHEREAS, therefore, the Board finds that the

SECTION 32-00 OF THE ZONING RESOLUTION”;  
and

WHEREAS, a public hearing was held on this application on October 1, 2002 after due notice by publication in *The City Record* and laid over to November 12, 2002 and December 17, 2002 and then to January 14, 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 Mitchell Korbey; and proposed application will not alter the essential character of the surrounding neighborhood, nor impair the use of development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, 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 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, on a site previously before the Board, in an R5 zoning district to replace the existing structure with a new 4,741 square foot automotive service station with an accessory retail convenience store, installation of underground storage tanks, construction of a new overhead canopy with 5 pump islands and the installation of new signage contrary to Z.R. Section 32-00 and Calendar Number 483-69-BZ, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked Received “October 29, 2002”- (4) sheets, and “December 10, 2002”- (2) sheets; and on further condition;

THAT the term of the variance shall be limited to ten (10) years from the date of this grant, to expire on January 14, 2013;

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

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

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

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

THAT this approval is limited to the relief granted by the

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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

## 138-02-BZ

### CEQR #02-BSA-190K

APPLICANT - Sheldon Lobel, P.C., for Faks Realty Corporation, owner.

SUBJECT - Application April 29, 2002 - under Z.R. §72-21 to permit in an M1-1 zoning district, the proposed one-story enlargement of an existing one-story and mezzanine building, (Use Group 17) contrary to zoning requirements for floor area ratio, wall height, minimum setback, side yard and parking in violation of Z.R. §§43-12, 43-43, 43-25, and 44-21.

PREMISES AFFECTED - 4302 Farragut Road, on the corner of East 43rd Street and Farragut Road, Block 5018, Lot 38, Borough of Brooklyn.

### COMMUNITY BOARD #17BK

#### APPEARANCES -

For Applicant: Janice Cahalane.

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

#### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

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

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 15, 2002 acting on Application No. 301263763 reads:

“THE PROPOSED ENLARGEMENT OF THE EXISTING ONE-STORY AND MEZZANINE, WAREHOUSE IN A M1-1 ZONING DISTRICT.

1. THE PROPOSED BUILDING EXCEEDS THE PERMITTED FAR. CONTRARY TO SECTIONS 43-12 OF THE ZONING RESOLUTION.
2. EXCEEDS THE PERMITTED PERIMETER WALL HEIGHT AND DOES NOT MEET THE MINIMUM SETBACK REQUIREMENT CONTARY TO SECTION 43-43 OF THE ZONING RESOLUTION.
3. DOES NOT MEET THE MINIMUM SIDE YARD REQUIREMENT. CONTRARY TO SECTION 43-25 OF THE ZONING RESOLUTION.
4. DOES NOT MEET THE MINIMUM PARKING REQUIREMENT. CONTRARY TO SECTION 44-21 OF THE ZONING RESOLUTION.”; and

WHEREAS, a public hearing was held on this application on December 17, 2002 after due notice by

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, January 14, 2003.

publication in *The City Record* and laid over to January 17, 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 Mitchell Korbey; and

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, to permit, in an M1-1 zoning district, the proposed one-story enlargement of an existing one-story and mezzanine building, (Use Group 17) contrary to zoning requirements for floor area ratio, wall height, minimum setback, side yard and parking in violation of Z.R. §§43-12, 43-43, 43-25, and 44-21; and

WHEREAS, the subject building extends 100 feet, the entire length of the block along the southerly side of Farragut Road, continuing southerly 100 feet along the easterly side of 43<sup>rd</sup> Street, continuing 100 feet easterly parallel to Farragut Road, then northerly 100' parallel to 43<sup>rd</sup> Street in the East Flatbush area of Brooklyn; and

WHEREAS, the record indicates that the building is being used as a chocolate factory and the applicant represents that due to its present size limitation is suffering an economic hardship; and

WHEREAS, the building's loading capacity is not sufficient for typical manufacturing uses, but the nature of the applicant's business enables it to operate with small delivery trucks and not the large tractor-trailer customarily used for most other manufacturing or commercial uses; and

WHEREAS, the applicant represents that the proposed enlargement will provide space to operate a Kosher kitchen enabling the subject business to remain competitive; and

WHEREAS, the record indicates that since May 21, 1940, with subsequent amendments, the site has operated pursuant to Board variances housing a gasoline service station, and an automobile repair shop; and

WHEREAS, site's history of development with Board-approved variances and evidence in the record indicating that the subject site cannot house or be converted to a viable entirely complying structure creates a practical difficulty in complying strictly with the Zoning Resolution; and

WHEREAS, evidence in the record, including a feasibility study and financial analysis sufficiently demonstrates that a complying use in the entire building would not yield a reasonable return; and

WHEREAS, the record indicates that the subject property is located in an area characterized by a mixture of commercial and manufacturing uses; and

WHEREAS, the Board notes that this is merely an enlargement to an existing use and that the operation of the subject business is wholly within the building; and

WHEREAS, therefore, the Board finds that the

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

WHEREAS, 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 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, on a site previously before the Board, to permit, in an M1-1 zoning district, the proposed one-story enlargement of an existing one-story and mezzanine building, (Use Group 17) contrary to zoning requirements for floor area ratio, wall height, minimum setback, side yard and parking in violation of Z.R. §§43-12, 43-43, 43-25, and 44-21, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 26, 2002"-(9) 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 shall be noted in the Certificate of Occupancy;

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

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

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

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

Adopted by the Board of Standards and Appeals, January 14, 2003.

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

## 151-02-BZ

### CEQR #02-BSA-198M

APPLICANT - Law Offices of Howard Goldman, PLLC, for Phoenix House Foundation, Inc., owner; Cavan Development Corp., Contract Vendee.

SUBJECT - Application May 9, 2002 - under Z.R. §72-21, to permit in a C4-6A zoning district, the proposed construction of a twelve-story building, which exceeds the maximum permissible height and is contrary to Zoning Resolution §23-692.

PREMISES AFFECTED - 223 West 80th Street, between Broadway and Amsterdam Avenue, Block 1228, Lot 19, Borough of Manhattan.

### COMMUNITY BOARD #7M

#### APPEARANCES -

For Applicant: Chris Wright.

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

#### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

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

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 18, 2002, acting on Application No. 103134724 reads:

"Proposed construction of residential building does not comply with Section 23-692 of the NYC Zoning Resolution (Height Limitations for Narrow Buildings or Enlargements)."; and

WHEREAS, a public hearing was held on this application on October 29, 2002 after due notice by publication in The City Record and laid over to December 10, 2002 for continued hearing and then to January 14, 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 Mitchell Korbey, Commissioner Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in a C4-6A zoning district, the proposed construction of a twelve-story building, which exceeds the maximum permissible height and is contrary to Zoning Resolution §23-692; and

WHEREAS, the permissible Floor Area Ratio (FAR) in the subject zoning district is 10.0, and the subject proposal

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is 8.3; and

WHEREAS, however, §23-692, which applies to lots of less than 45 feet in width such as the subject lot, restricts

WHEREAS, the subject lot is located between a 12-story building and a 7-story building, and abuts a 22-story building in the rear and therefore any development on the lot is limited to 7 stories; and

WHEREAS, the applicant states that a complying use on the premises cannot generate sufficient square footage to offset the development cost associated with unique conditions of the zoning lot; and

WHEREAS, the record indicates that site is improved with an existing 3-story community facility building, formerly housing a day care and currently utilized as a central admissions office and outpatient center for Phoenix House, a provider of substance abuse and treatment programs; and

WHEREAS, the applicant represents that due to the building's design history, the present structure is burdened by numerous conditions, such as the lack of an elevator and rear yard, which effectively prohibit residential conversion or commercial use; and

WHEREAS, evidence in the record indicates that the front half of the building's basement was not excavated, which is necessary in order to create space for a stairway, elevator core and mechanical rooms; and

WHEREAS, the applicant further represents that the excavation of the front half of the basement will be both difficult and costly due to the narrowness of the lot and the existing buildings on both the east and west; and

WHEREAS, the Board finds that aforementioned unique physical conditions of the site, namely the functional obsolescence of the existing building and the lack of half of the basement level, makes its occupancy for a complying use impractical and creates an unnecessary hardship in developing the site in compliance 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 applicant's original proposal was for a 12-story plus penthouse building housing twelve units, but at the request of the Board, and in response to community-based concerns, the proposal has been reduced in size and height by the removal of the penthouse level and a reduction in the number of units to eleven; and

WHEREAS, the record indicates that the vicinity of the subject premises is predominately residential in character, and there exist numerous buildings 12-stories or higher in the immediate area; and

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

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

WHEREAS, the Board finds that the variance

the height of any new development to the height of the shorter adjacent building; and

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 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 a C4-6A zoning district, the proposed construction of a twelve-story building, which exceeds the maximum permissible height and is contrary to Zoning Resolution §23-692, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 7, 2003"-(12) 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 shall be noted in the Certificate of Occupancy;

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

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

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

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

Adopted by the Board of Standards and Appeals, January 14, 2003.

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# MINUTES

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## 305-01-BZ thru 320-01-BZ

APPLICANT - Sheldon Lobel, P.C., for HRF Construction, Co., Inc., owner.

SUBJECT - Application October 31, 2001 - under Z.R. §72-21, to permit the proposed construction of a residential building, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

### PREMISES AFFECTED -

65-97 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 28, Borough of Queens.

65-77 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 20, Borough of Queens.

65-79 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 21, Borough of Queens.

65-81 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 22, Borough of Queens.

65-83 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 23, Borough of Queens.

65-85 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 24, Borough of Queens.

65-87 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 25, Borough of Queens.

65-89 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 26, Borough of Queens.

65-91 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 27, Borough of Queens.

65-90 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 29, Borough of Queens.

65-88 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 30, Borough of Queens.

65-86 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 31, Borough of Queens.

65-84 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 32, Borough of Queens.

65-82 Terrace Court, at the end of Admiral Avenue,

### COMMUNITY BOARD #14BK

#### APPEARANCES -

For Applicant: Harold Weinberg.

#### THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 33, Borough of Queens.

65-80 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 34, Borough of Queens.

65-78 Terrace Court, at the end of Admiral Avenue, near the juncture of Admiral Avenue and 65th Lane, Block 3605, Lot 35, Borough of Queens.

### COMMUNITY BOARD #5Q

#### APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to March 4, 2003, at 1:30 P.M., for continued hearing.

## 324-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Jill Moir, owner.

SUBJECT - Application November 8, 2001 and updated April 29, 2002 - under Z.R. §72-21, to permit the proposed construction of a mixed-use development (commercial and residential), located in an M1-2 zoning district, in which the commercial use is as of right, is contrary to §42-00.

PREMISES AFFECTED - 1077 Bay Street, between Bay and Edgewater Streets, Block 2825, Lot 1, Borough of Staten Island.

### COMMUNITY BOARD #1S.I.

#### APPEARANCES-

For Applicant: Janice Cahalane.

#### THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 1:30 P.M., for decision, hearing closed.

## 325-01-BZ

APPLICANT - Harold Weinberg, P.E., for Chaim Stern, owner.

SUBJECT - Application November 9, 2001 - under Z.R. §73-622, to permit the proposed enlargement at the rear of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which creates non-compliance in respect to floor area ratio, open space ratio, rear yard and layout of cellar, and is contrary to Z.R. §23-141 and §23-47.

PREMISES AFFECTED - 1375 East 27th Street, east side, 140'-0" north of Avenue "N", Block 7663, Lot 16, Borough of Brooklyn.

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 1:30 P.M., for decision, hearing closed.

## 28-02-BZ

APPLICANT - Sheldon Lobel, P.C., for TUBA Corp., owner; Harris G. Joseph, Inc., lessee.

SUBJECT - Application January 16, 2002 - under Z.R. §73-36, to

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# MINUTES

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permit the legalization of an existing physical culture establishment, Use Group 9, located in the cellar, of a ten story building, in a C5-2 zoning district, which requires a special permit as per Z.R. §32-31. PREMISES AFFECTED - 80 Madison Avenue, between 28th and 29th Streets, Block 858, Lot 14, Borough of Manhattan.

## COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: John Yacovone, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 1:30 P.M., for decision, hearing closed.

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## 60-02-BZ

APPLICANT - Harold Weinberg, P.E., for Naomi Kunin, owner. SUBJECT - Application February 15, 2002 - under Z.R. §73-622, to permit the legalization of an interior enlargement in an existing one family dwelling, Use Group 1, which creates non-compliance with respect to floor area ratio and rear yard, which is contrary to Z.R. §§23-141 and 23-47.

PREMISES AFFECTED - 3849 Bedford Avenue, east side, 380.0' south of Quentin Road, Block 6808, Lot 71, Borough of Brooklyn

## COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

**ACTION OF THE BOARD** - Laid over to May 6, 2003, at 1:30 P.M., for continued hearing.

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## 85-02-BZ

APPLICANT - Mothiur Rahman, for Alan G. Markopoulos, owner; Giovanni Hincapie, lessee.

SUBJECT - Application March 26, 2002 - under Z.R. §72-21, to permit the legalization of an existing public parking lot, Use Group 8, located in an R7-1 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 850 East 181st Street, aka 2120 Crotona Parkway, southeast corner, Block 3119, Lot 16, Borough of The

## 123-02-BZ

APPLICANT - Joseph P. Morsellino, for 14-34 110th Street, LLC, owner; JCH Delta Contracting Inc., lessee.

SUBJECT - Application April 18, 2002 - under Z.R. §72-21, to permit the proposed six story mixed use building, consisting of commercial office space, and residential occupancy on floors three through six, located in an M2-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 14-34 110th Street, west side of Powells Cove Boulevard, Block 4044, Lot 20, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES -

Bronx.

## COMMUNITY BOARD #6BX

APPEARANCES -

For Applicant: Mothiur Rahman.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 1:30 P.M., for decision, hearing closed.

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## 122-02-BZ

APPLICANT - Fredrick A. Becker, Esq., for Perl Rose Realty Co., LLC, owner; Just Calm Down, LLC, lessee.

SUBJECT - Application April 18, 2002 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, Use Group 9, located on the first floor and in the cellar of a six story

office building, which requires a special permit as per Z.R. §73-36.

PREMISES AFFECTED - 32 West 22nd Street, south side, 492' west of Fifth Avenue, Block 823, Lot 61, Borough of Manhattan.

## COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Fredrick A. Becker.

For Administration: John A. Yacovone, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to March 4, 2003, at 1:30 P.M., for decision, hearing closed.

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For Applicant: Joseph Morsellino and Toula Hanvis.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD** - Laid over to February 11, 2003, at 1:30 P.M., for decision, hearing closed.

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## 149-02-BZ & 150-02-BZ

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

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lessee.

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit the proposed construction of a one story eating and drinking establishment, Use Group 6, located in an R3-2 zoning district, which is contrary to Z.R. §22-10.

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

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

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

APPEARANCES -

For Applicant: Victor Han.

For Opposition: Ben Cohen and Michael Bottalico.

For Administration: John A. Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to February 4, 2003, at 1:30 P.M., for continued hearing.

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## **152-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Ruppert Housing Company, Inc., owner; Dolphin 93rd Fitness aka Synergy Fitness 93, lessee.

SUBJECT - Application May 9, 2002 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, located in a portion of the cellar and the first floor, in a seventeen story, commercial and residential building, in a C2-8 zoning district, requires a special permit as per Z.R. §32-31.

PREMISES AFFECTED - 1768/81 Second Avenue (aka 235/45 East 92nd Street and 220/48 East 93rd Street), hereinafter 1781 Second Avenue, southwest corner of East 93rd Street, Block

## **209-02-BZ**

APPLICANT - Samuel Beltron, for Julia Torres, owner.

SUBJECT - Application July 7, 2002 - under Z.R. § 73-36 to permit the legalization of an existing physical culture establishment, Use Group 9, located on the fourth floor of an existing four story building, in a C4-4 zoning district, which requires a special permit as per Z.R. §32-31.

PREMISES AFFECTED - 2999 Third Avenue, west side, 121'-0" south of east 155th Street, Block 2376, Lot 51, Borough The Bronx.

## **COMMUNITY BOARD #1BX**

APPEARANCES -

For Applicant: Samuel Beltron.

For Administration: John A. Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to March 4, 2003, at 1:30 P.M., for postponed hearing.

1538, Lot 21, Borough of Manhattan.

## **COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO REOPEN HEARING -

Affirmative: Commissioner Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

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

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## **181-02-BZ**

APPLICANT - Joseph P. Morsellino, Esq., for ISHJ Corp., owner.

SUBJECT - Application May 28, 2002 - under Z.R. §72-21 to permit the proposed erection and maintenance of a one story car wash facility, Use Group 16, located in an R4 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 1875 Bartow Avenue, northwest corner of Ely Avenue, Block 4795, Lot 21, Borough of The Bronx.

## **COMMUNITY BOARD #12BX**

APPEARANCES -

For Applicant: Joseph P. Morsellino.

For Opposition: Councilman Larry Seabrook and Walter Burgin.

**ACTION OF THE BOARD** - Laid over to March 4, 2003, at 1:30 P.M., for continued hearing.

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## **264-02-BZ**

APPLICANT - Friedman & Gotbaum, LLP, by Shelly S. Friedman, Esq., for The Rubin Cultural Trust, owner.

SUBJECT - Application September 30, 2002 - under Z.R. §72-21 to permit the proposed addition to an existing community facility, at the second floor rear yard portion, which is not in compliance with Z.R. §33-23 regarding rear yard requirements.

PREMISES AFFECTED - 150/54 West 17th Street, south side, between Sixth and Seventh Avenues, 100' east of Seventh Avenue, Block 792, Lots 64 through 66, Borough of Manhattan.

## **COMMUNITY BOARD #4M**

APPEARANCES -

For Applicant: Lisa Schubert, Rob Linrothe, Lori Cuisinier, Roberta Gelb, Lawrence A. Dalis and other.

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For Administration: John Yacovone, Fire Department.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Commissioner Chin, Commissioner Korbey,  
Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD -** Laid over to February 4,  
2003, at 1:30 P.M., for decision, hearing closed.

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**266-02-BZ**

APPLICANT - Harold Weinberg, P.E., for Edmund Dweck,  
owner.

SUBJECT - Application October 3, 2002 - under Z.R. §73-622 to  
permit the proposed enlargement to an existing one family dwelling,  
Use Group 1, located in an R3-1 zoning district, which creates  
non-compliance with respect to floor area ratio, lot coverage and  
rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

PREMISES AFFECTED - 181 Jaffray Street, east side, 100'-0"  
north of Oriental Boulevard, Block 8753, Lot 85, Borough of  
Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Harold Weinberg.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Commissioner Chin, Commissioner Korbey,  
Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD -** Laid over to February 4,  
2003, at 1:30 P.M., for decision, hearing closed.

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**273-02-BZ**

APPLICANT - Harold Weinberg, P.E., for Gregory Dweck,  
owner.

SUBJECT - Application October 9, 2002 - under Z.R. §73-622 to  
Negative: .....0

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

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

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*Pasquale Pacifico, Executive Director.*

Adjourned: 3:15 P.M.

permit the proposed enlargement at the rear, of an existing one  
family dwelling, which does not comply for floor area ratio, lot  
coverage, perimeter wall, setback and sky exposure plane, which is  
contrary to Z.R. §23-141, §54-31 and §23-631.

PREMISES AFFECTED - 615 Hampton Avenue, northwest  
corner of Ocean Avenue, Block 8731, Lot 51, Borough of  
Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Harold Weinberg.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Commissioner Chin, Commissioner Korbey,  
Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

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

**ACTION OF THE BOARD -** Laid over to February 4,  
2003, at 1:30 P.M., for decision, hearing closed.

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**330-02-BZ**

APPLICANT - Law Offices of Howard Goldman, PLLC, for Trey  
Whitfield School, owner.

SUBJECT - Application November 8, 2002 - under Z.R. §72-21  
to permit the proposed conversion of a former welfare center, for  
use as an elementary school, Use Group 3, located in an M1-4  
zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 48/60 Williams Avenue, bounded by  
Liberty and Atlantic Avenues, Block 3682, Lot 33, Borough of  
Brooklyn.

**COMMUNITY BOARD #5BK**

APPEARANCES -

For Applicant: Chris Wright.

For Opposition: John A. Yacovone, Fire Department.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Commissioner Chin, Commissioner Korbey,  
Commissioner Caliendo and Commissioner Miele.....4

**DISMISSAL CALENDAR**

**WEDNESDAY MORNING, JANUARY 15, 2003**

**10:00 A.M.**

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

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**529-52-BZ**

APPLICANT - New York City Board of Standards and  
Appeals.

OWNER OF PREMISES: Angelo Mordini.

SUBJECT - to dismiss the application for lack of  
prosecution.

PREMISES AFFECTED - 77-11 Roosevelt Avenue, north  
west corner of 78<sup>th</sup> Street and Roosevelt Avenue, Block  
1288, Lot 39, Borough of Queens.

**COMMUNITY BOARD #3Q**

APPEARANCES -

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For Applicant: Sandy Anagnostou.

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

**THE VOTE TO WITHDRAW** -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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## **426-54-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Howard Levine.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 78-11 Linden Boulevard, northwest

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## **485-76-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Guiseppe Ventimiglia.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 70-01/09 65<sup>th</sup> Street, corner formed by Main Intersection of Otto Road and South side of 70<sup>th</sup> Avenue, Block 3644, Lot 1, Borough of Queens.

**COMMUNITY BOARD #5Q**

APPEARANCES -

For Applicant: Sandy Anagnostou.

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

**THE VOTE TO WITHDRAW** -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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## **492-91-BZ**

APPLICANT: New York City Board of Standards and Appeals.

OWNER OF PREMISES: Michelle Frank.

SUBJECT: to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 214-32 Hillside Avenue, Southeast corner of Vanderveer Street and Hillside Avenue, Block 10673, Lot 3, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES -

For Applicant: Janice Abrams.

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

**THE VOTE TO WITHDRAW** -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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corner of Linden Boulevard and 79th Street, Block 11376, Lot 23, Borough of Queens.

**COMMUNITY BOARD #10Q**

APPEARANCES -

In Favor: Hiram A. Rothkrug.

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

**THE VOTE TO WITHDRAW** -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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## **172-97-BZ**

APPLICANT: New York City Board of Standards and Appeals.

OWNER OF PREMISES: Oceana Holding Corporation, Inc.

SUBJECT: to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 1023 Brighton Beach Avenue, North side, between Brighton 11<sup>th</sup> Street and Brighton 12<sup>th</sup> Street, Block B-8709, Lot 60, Borough of Brooklyn.

**COMMUNITY BOARD #13BK**

APPEARANCES -

For Applicant: Harold Weinberg.

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

**THE VOTE TO WITHDRAW** -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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## **331-98-BZ**

APPLICANT: New York City Board of Standards and Appeals.

OWNER OF PREMISES: Sean Porter.

SUBJECT: to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 1426-1428 Fulton Street, Fulton Street between Brooklyn Avenue and Kingston Avenue, Block 1863, Lots 9 & 10, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

APPEARANCES -

For Applicant: Janet Abrams.

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

**THE VOTE TO WITHDRAW** -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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**386-01-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Chrisanthy Zisimopoulos

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 223 84th Street, north side of 84th Street, between Ridge Boulevard and 3rd Avenue, Block 6016, Lot 67, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES - None.

**120-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Abraham Lokshin.

LESSEE: Dolphin Fitness Inc.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 42-46 Avenue A, northeast corner of Avenue A and 3rd Street, Block 399, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #3M**

APPEARANCES -

In Favor: Janice Cahalane.

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

THE VOTE TO WITHDRAW -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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**192-02-BZ**

APPLICANT: New York City Board of Standards and Appeals.

OWNER OF PREMISES: Cord Meyer Development, LLC

SUBJECT: to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 108-36/50 Queens Boulevard, Southeast corner of Queens Boulevard and Windsor Place (71<sup>st</sup> Road), Block 3257, Lots 1 & 42, Borough of Queens.

**COMMUNITY BOARD #6Q**

APPEARANCES -

In Favor: Janice Cahalane.

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

THE VOTE TO WITHDRAW -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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**238-02-BZ**

APPLICANT: New York City Board of Standards and Appeals.

OWNER OF PREMISES: Peter Krashes

SUBJECT: to dismiss the application for lack of prosecution.

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

THE VOTE TO WITHDRAW -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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PREMISES AFFECTED - 638 Dean Street between Carlton Avenue and Vanderbilt Avenue, Block 1137, Lot 37, Borough of Brooklyn.

**COMMUNITY BOARD #8BK**

APPEARANCES -

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

THE VOTE TO WITHDRAW -

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

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Korbey.....2

Adopted by the Board of Standards and Appeals, January 15, 2003.

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**161-02-BZ**

APPLICANT: New York City Board of Standards and Appeals.

OWNER OF PREMISES: Coral Cove, LLC

SUBJECT: to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 2433 Knapp Street, corner of Knapp Street and Avenue X, Block 8833, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

In Favor: Peter Hirshman.

**ACTION OF THE BOARD** - Laid over to April 15, 2003, at 10 A.M., SOC Calendar, for continued hearing.

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**202-02-BZ**

APPLICANT: New York City Board of Standards and Appeals.

OWNER OF PREMISES: Hajj D. Corp.

SUBJECT: to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 133-20 Rockaway Boulevard, South Ozone Park, Block 11757, Lot 55, Borough of Queens.

**COMMUNITY BOARD #12Q**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to March 4, 2003, at 10 A.M., SOC Calendar, for continued hearing.

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**203-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Marcello Porcelli, Fabrizio Realty Corp.

LESSEE: BP AMOCO, plc

SUBJECT - to dismiss the application for lack of prosecution.

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PREMISES AFFECTED - 110-18 Northern Boulevard, between 110 and 111th Streets, Block 1725, Lots 1, 3, 4, 7, 8, 11, 12, & 13, Borough of Queens.

**COMMUNITY BOARD #3Q**

APPEARANCES -

**210-02-BZ & 213-02-BZ**

APPLICANT: New York City Board of Standards and Appeals.

OWNER OF PREMISES: Mark Graue.

SUBJECT: to dismiss the application for lack of prosecution.

PREMISES AFFECTED -

78-01 Myrtle Avenue, northeast corner of Myrtle Avenue and 78<sup>th</sup> Street and 79<sup>th</sup> Street, Block 3827, Lot 50, Borough of Queens.

78-03 Myrtle Avenue, northeast corner of Myrtle Avenue and 78<sup>th</sup> Street and 79<sup>th</sup> Street, Block 3827, Lot 49, Borough of Queens.

78-05 Myrtle Avenue, northeast corner of Myrtle Avenue and 78<sup>th</sup> Street and 79<sup>th</sup> Street, Block 3827, Lot 48, Borough of Queens.

78-07 Myrtle Avenue, northeast corner of Myrtle Avenue and 78<sup>th</sup> Street and 79<sup>th</sup> Street, Block 3827, Lot 47, Borough of Queens.

**COMMUNITY BOARD #5Q**

APPEARANCES -

In Favor: Janet Abrams.

**ACTION OF THE BOARD** - Laid over to March 4, 2003, at 10 A.M., SOC Calendar, for continued hearing.

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**241-02-BZ**

APPLICANT: New York City Board of Standards and Appeals.

OWNER OF PREMISES: HFK Inc.

SUBJECT: to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 130 3<sup>rd</sup> Street, corner of Bond Street and 3<sup>rd</sup> Avenue, Block 466, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES -

In Favor: Janet Abrams.

**ACTION OF THE BOARD** - Laid over to January 28, 2003, at 10 A.M., SOC Calendar, for continued hearing.

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*Pasquale Pacifico, Executive Director.*

Adjourned: 10:15 A.M.

In Favor: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to April 15, 2003, at 10 A.M. SOC Calendar, for continued hearing.

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# MINUTES

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## CORRECTIONS

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### \*CORRECTION

This resolution adopted on July 9, 2002, under Calendar No. 603-49-BZ and printed in Volume 87, Bulletin Nos. 27-28, is hereby corrected to read as follows:

#### 603-49-BZ

APPLICANT - Alfonso Duarte, P.E., for JAJ Realty LLC, owner.  
SUBJECT - Application December 18, 2001 - reopening for an amendment to the resolution.

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

#### COMMUNITY BOARD #1Q

#### APPEARANCES -

For Applicant: Alfonso Duarte.

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

#### THE VOTE TO GRANT -

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

Negative: .....0

Abstain: Commissioner Miele.....1

#### THE RESOLUTION -

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

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

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

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

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

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

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

WHEREAS, the record indicates that the office use

has existed since 1985 without causing adverse impacts to the surrounding community; and

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

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

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

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

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB. No. 401203130)

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

**\*The resolution has been corrected to add DOB Applic. #401203130;”. Corrected in Bulletin No. 4, Vol. 88, dated January 23, 2003.**

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# CORRECTIONS

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**\*CORRECTION**

This resolution adopted on April 27, 1999, under Calendar No. 286-86-BZ, Vol. II and printed in Volume 84, Bulletin No. 18, is hereby corrected to read as follows:

**286-86-BZ, Vol. II**

APPLICANT - Sheldon Lobel, P.C., for George Kotsonis, owner.  
SUBJECT - Application September 30, 1998 - under Z.R. §72-21, to permit in a C1-3 zoning district, the use of the cellar portion of the premises as a physical culture establishment, which is contrary to Z.R. §32-31.

PREMISES AFFECTED - 100 Seventh Avenue, aka 808 Union Street, southwest corner, Block 957, Lot 33, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES -

For Applicant: Eric Palatnik.

For Administration: John Scrofani, Fire Department.

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

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Vice-Chair Bonfilio,

Commissioner Korbey and Commissioner Caliendo.....4

Negative: .....0

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated August 31, 1998 acting on Applic. No. 301022783 reads,

“The proposed change of use of a commercial cellar from a Use Group 6 to a Physical Culture Establishment in a C1-3 district is contrary to Section 32-31 of the Zoning Resolution”;

and

WHEREAS, a public hearing was held on this application on March 23, 1999 after due notice by publication in the *Bulletin* laid over to April 13, 1999, and then to April 27, 1999 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A. and Commissioner Mitchell Korbey; and

WHEREAS, this is an application under Z.R. §72-21, to permit the use of the cellar portion of the premises as a physical culture establishment in a C1-3 zoning district, which is contrary to Z.R. §32-31; and

WHEREAS, the site is a corner lot improved with a three story commercial building containing a 7,926 square foot commercial cellar ; and

WHEREAS, it is the 7,926 square foot commercial cellar space that is the subject of this application; and

WHEREAS, evidence in the record indicates that the structure on the site is entirely below ground level and has no windows or storefront; and

WHEREAS, the applicant represents that the current structure contains ceilings varying in height from approximately 8'10" at the highest point, to a low of 6'4" ; and

WHEREAS, the applicant further represents that the 6'4" height is located in a vault area resting below the sidewalk fronting Seventh Avenue, comprising nearly a fifth of the cellar area; and

WHEREAS, the above unique conditions demonstrate that the development of this site with a conforming use creates an unnecessary hardship; and

WHEREAS, the applicant asserts that the subject site has been vacant for at least ten years and that good faith attempts to rent the building for a conforming community facility use have been unsuccessful; and

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

WHEREAS, the surrounding area contains many commercial uses, including a pharmacy, a video store and a restaurant; and

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

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

WHEREAS, the Board finds that the variance is the minimum

variance necessary to afford relief; and

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

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

*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 a C1-3 zoning district, the use of the cellar portion of the premises as a physical culture establishment, which is contrary to Z.R. §32-31, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 19, 1999" -(1) sheet and "April 2, 1999"-(8) sheets; and *on further condition*;

THAT the term of the variance shall be for 10 years, expiring on April 27, 2009;

21; and

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

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

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# CORRECTIONS

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THAT the above conditions shall appear on the certificate of occupancy;

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

THAT a certificate of occupancy be obtained within one year of this resolution.

Adopted by the Board of Standards and Appeals, April 27, 1999.

**\*The resolution has been corrected to add DOB *Applic. #301022783. Corrected in Bulletin No. 4, Vol. 88, dated January 24, 2003.***

### \*CORRECTION

These resolution adopted on July 17, 2001, under Calendar No. 118-01-BZ and printed in Volume 86, Bulletin No. 30, is hereby corrected to read as follows:

**118-01-BZ**

**CEQR #01-BSA-117R**

APPLICANT - Land Planning & Engineering Consultants, P.C., Vito J. Fossella, P.E., for James Kinsella, owner.

SUBJECT - Application March 13, 2001 - under Z.R. §72-21, to

permit the proposed one story office building (Use Group 6) located in an R3-2 zoning district, which is contrary Z.R. §22-00. PREMISES AFFECTED - 1845 Richmond Avenue, east side, 500.18' south of Eton Place, Block 2030, Lot 57, Borough of Staten Island.

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

APPEARANCES -

For Applicant: Victor Han.

For Opposition: Battalion Chief Phil Parr and John Scrofani, Fire Department.

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

**THE VOTE TO REOPEN HEARING** -

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

Negative: .....0

**THE VOTE TO CLOSE HEARING** -

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

Negative: .....0

**THE VOTE TO GRANT** -

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

Negative: .....0

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated November 20, 2000 acting on NB. Application No. 500415963 reads, in pertinent part:

"PROPOSED OFFICE BUILDING IN A RESIDENTIAL ZONE (R3-2) CONTRARY TO SECTION 22-00 OF THE NEW YORK CITY ZONING RESOLUTION."; and

WHEREAS, Community Board, No.1, Staten Island, recommends conditional approval of this application; and

WHEREAS, a public hearing was held on this application on June 27, 2001 after due notice by publication in *The City Record* and laid over to July 17, 2001 for decision; on July 17, 2001, the hearing was reopened, closed and a decision rendered; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit in a R3-2 zoning district, the proposed use of a one-story, cellar and sub-cellar office building (Use Group 6), which does not comply with Z.R. §22-00; and

WHEREAS, the subject premises contains 100' of frontage on Richmond Avenue a heavily traveled six lane arterial roadway,

WHEREAS, the residential dwelling to the south of the property was converted to a day-care center situating the subject site between two commercial uses; and

WHEREAS, the record indicates that the structures within the immediate vicinity of the subject premises house commercial uses; and

WHEREAS, the applicant represents that within a quarter mile radius to the north and south of the subject site, within the last two decades most developments have been either offices, automotive service stations, community facility, or retail uses; and

WHEREAS, the subject structure contains approximately 18,875 square feet of lot area which would yield approximately 9,437.50 square feet of residential floor area; and

WHEREAS, the site's history of development with increasing commercial and office uses, the site's vacant status, and the costs of a new 10" sanitary sewer for the subject premises are unique conditions creating unnecessary hardships and practical difficulties in developing the site in strict conformity with the current zoning regulations; and

with commercial development to the north and to the south; and

WHEREAS, the record indicates that the existing two family structure which was developed in the early fifties is presently vacant; and

WHEREAS, the applicant represents that since the development of the existing building the character of the neighborhood has substantially changed from a residential to a more commercial streetscape with Richmond Avenue transforming from a two lane roadway to a six-lane (140' wide) major thoroughfare; and

WHEREAS, the record indicates that by virtue of a Board variance, the northern adjacent site (Block: 2030, Lot: 68) which is approximately 2 acres, was developed as a commercial nursery with approximately 20,000 square feet of greenhouse and a 62 car parking lot adjacent to the northern property line of the subject site; and

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## CORRECTIONS

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WHEREAS, the applicant represents that the above referenced conditions leave no possibility of obtaining a reasonable return through conforming development; and

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

WHEREAS, as illustrated above, the subject premises is in a surrounding neighborhood that is characterized by commercial and office uses; and

WHEREAS, in accordance with BSA approved plans the applicant has agreed to comply with the Fire Department's safety measures; and

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

nor be detrimental to the public welfare; and

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

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

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

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

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# MINUTES

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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 a R3-2 zoning district, the proposed use of a one-story, cellar and sub-cellar office building (Use Group 6), which does not comply with 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 March 13, 2001"-(7) sheets and "July 17, 2001"-(1) sheet; and *on further condition*;

THAT the term of the variance shall be limited to 20 years from the date of this grant expiring on July 17, 2021;

THAT all Fire Department safety measures shall be provided and maintained in accordance with BSA approved plans;

THAT an automatic wet sprinkler system be installed throughout the entire sub-cellar connected to a Fire Department

**\*\*The resolution has been corrected in that the portion which read: "THAT an automatic wet sprinkler system be installed throughout the entire cellar connected" now reads: "THAT an automatic wet sprinkler system be installed throughout the entire sub-cellar connected". Corrected in Bulletin No. 4, Vol. 88, dated January 24, 2003.**

Approved Central Station;

THAT the above conditions shall appear on the certificate of occupancy;

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

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

Adopted by the Board of Standards and Appeals, July 17, 2001.

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*Pasquale Pacifico, Executive Director.*