
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:
40 Rector Street, 9th Floor, New York, N.Y. 10006.

Volume 88, No. 53

January 1, 2004

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385-03-BZ B.Q. 85-15 & 85-17 120th Street, southeast corner of 85th Avenue, Block 9266, Lots 48 and 53, Borough of Queens. N.B. #401725059. Proposed erection of a six-story multiple dwelling with 46 Units, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, dwelling units, and height and setback, is contrary to Z.R. §23-141(c), §23-22 and §23-631(b).

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386-03-BZ B.M. 326 East 18th Street, south side, between First and Second Avenues, Block 923, Lot 50, Borough of Manhattan. Applic. #103513672. Proposed conversion of a vacant doctor's office in the basement of the building, to residential use, and to incorporate that space into the existing one-family residential use, Use Group 2, located in an R7B zoning district, does not comply with the zoning requirements for rear yard, floor area and lot coverage, is contrary to Z.R. §23-145, §23-44 and §54-31.

COMMUNITY BOARD #6M

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COMMUNITY BOARD #2M

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COMMUNITY BOARD #15BK

390-03-BZ B.BK. 95 Dobbin Street, between Norman and Messerole Avenues, Block 2616, Lot 18, Borough of Brooklyn. Applic. #301139408. The legalization of residential use on the second floor, of a two story mixed use building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #1BK

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

CALENDAR

FEBRUARY 10, 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 10, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

101-92-BZ

APPLICANT - Sheldon Lobel, P.C., for Portrem Realty Co., owner.

SUBJECT - Application August 13, 2003 - reopening for an extension of term of variance which expired October 26, 2003.

PREMISES AFFECTED - 68-98 E. Burnside Avenue (aka 2036 Walton Avenue and 2035 Morris Avenue) south side of East Burnside Avenue, between Walton Avenue and Morris Avenue, Block 2829, Lot 45, Borough of The Bronx.

COMMUNITY BOARD #5BX

191-00-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 184 Kent Avenue Associates, owner.

SUBJECT - Application December 12, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 184 Kent Avenue, northwest corner of intersection of Kent Avenue and North 3rd Street, Block 2348, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

279-01-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Magen David Yeshivah, owner.

SUBJECT - Application December 8, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 2106-2130 McDonald Avenue, through lot with frontage on Lake Street & McDonald Avenue, between Avenue S & T, Block 7087, Lots 14, 22, 24, 73, 76, Borough of Brooklyn.

COMMUNITY BOARD #11BK

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, February 10, 2004, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

255-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Surf Avenue Enterprise, owner.

SUBJECT - Application August 11, 2003- under Z.R. §72-21 to permit the legalization of an existing furniture store, Use Group 10, located in a C7 zoning district, also a request to vary the requirement of maintaining a loading berth on the premises, is contrary to Z.R. §32-10 and §36-62.

PREMISES AFFECTED - 1019 Surf Avenue, between West 8th and West 12th Streets, Block 7628, Lot 236, Borough of Brooklyn.

COMMUNITY BOARD #13BK

333-03-BZ

APPLICANT - Rampulla Associates, Architects, for Cobra Realty, Inc., owner; Wycoff Heights Medical Center; lessee.

SUBJECT - Application October 29, 2003 - under Z.R. §72-21 to permit the reestablishment of a variance previously granted under Cal. No. 18-77-BZ, which permitted a 40 car parking lot in an R6 zoning district.

PREMISES AFFECTED - 371 Stockholm Street, between Wyckoff and St. Nicholas Avenues, Block 3249, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #4BK

382-03-BZ

APPLICANT - Raymond H. Levin, Esq., for 406 Realty, LLC, owner; FIT Student Housing Corporation, lessee.

SUBJECT - Application December 8, 2003 - under Z.R. §72-21 to permit the proposed conversion of a fifteen-story with cellar and basement manufacturing loft building, to a dormitory, Use Group 3A, located in an M1-5 zoning district, which is contrary to Z.R. §42-12.

PREMISES AFFECTED - 406 West 31st Street, south side, between Ninth and Tenth Avenues, Block 728, Lot 42, Borough of Manhattan.

COMMUNITY BOARD #4M

Pasquale Pacifico, Executive Director

FEBRUARY 10, 2004, 1:30 P.M.
REGULAR MEETING
TUESDAY MORNING, DECEMBER 23, 2003

10:00 A.M.

MINUTES

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, October 21, 2003, were approved as printed in the Bulletin of October 30, 2003, Volume 88, No. 43-44.

SPECIAL ORDER CALENDAR

138-68-BZ

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

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

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

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Frances R. Angelino. Stephen Katz, John Gorden.

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

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the applicant requested an amendment to the resolution to permit the enlargement of the first floor and cellar of a previously approved funeral home; and

WHEREAS, a public hearing was held on this application on December 9, 2003 after due notice by publication in *The City Record* and then to December 23, 2003 for decision; and

WHEREAS, on June 11, 1968, the Board granted an application to permit, in an R2 zoning district, in an existing two-story building, the erection of a one-story enlargement to a first floor funeral establishment with a cessory parking in the open area of the zoning lot.

Resolved, that the Board of Standards and Appeals, *reopens and amends* the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, said resolution having been adopted on June 11, 1968, so that as amended this portion of the resolution shall read:

“to permit the enlargement of the first floor and cellar of a previously approved funeral home, *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 6, 2003”-(7) sheets and “December 10, 2003”-(1) sheet; and on further condition;

WHEREAS, the applicant requested a re-opening and an extension of the term of the variance which expired on July 13, 2003; and

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 parking of vehicles on the sidewalk; and

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

THAT a new Certificate of Occupancy shall be obtained within one year of this 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; 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 NB Application # 401691157)

Adopted by the Board of Standards and Appeals, December 23, 2003.

799-89-BZ

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

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

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

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Robert Reichelscheimer.

ACTION OF THE BOARD - Application re-opened and term of the Variance extended.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on December 9, 2003 after due notice by publication in *The City Record* and then to December 23,

MINUTES

2003 for decision; and

WHEREAS, on September 12, 1989, the Board granted an application to permit, in a C8-1 and R6 zoning district, the legalization of the change in use from an automotive sales establishment with accessory automotive repair (Use Group 16) to a contractor's establishment (Use Group 17), which is a non-conforming use in the residential portion of the lot; and

Resolved, that the Board of Standards and Appeals, *reopens and amends* the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, said resolution having been adopted on September 12, 1989 as amended through July 13, 1993, expiring July 13, 2003, 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 December 23, 2003 expiring on December 23, 2013, *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 27, 2003”- (6) sheets; and on further condition;

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

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

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

THAT a new Certificate of Occupancy shall be obtained within one year of this 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; 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 Alt. Application # 200793338)

Adopted by the Board of Standards and Appeals, December 23, 2003.

385-01-BZ

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

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

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

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Jos Friedman.

81-03-BZ

APPLICANT - New York City Board of Standards and Appeals.

ACTION OF THE BOARD - Application reopened and resolution amended.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on December 9, 2003, after due notice by publication in *The City Record*, and laid over to December 23, 2003 for decision; and

WHEREAS, the applicant requests a re-opening and an amendment to the resolution; and

WHEREAS, on May 14, 2002, the Board permitted the legalization of an existing Yeshiva, at the first and second floor levels and an enlargement of the building, creating a third floor and a partial fourth floor with a play area at the roof level; and

WHEREAS, the applicant seeks to amend the layout of the fourth floor; and

WHEREAS, the record indicates that the proposed amendment will provide a design that is more efficient and cost effective.

Resolved, that the Board of Standards and Appeals, *reopens and amends* the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, so that as amended this portion of the resolution shall read: “to permit the proposed layout of the fourth floor,” 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 2, 2003”- (7) sheets; and on further condition;

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application # 301190397)

Adopted by the Board of Standards and Appeals, December 23, 2003.

OWNER OF PREMISES: Vinicio Ramirez

SUBJECT - to dismiss the application for lack of prosecution.

MINUTES

PREMISES AFFECTED - 857 East 169th Street/1351 Lyman Place, north side of E. 169th Street west of corner formed by East 169th Street and Lyman Place, Block 2970, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #3BX

APPEARANCES -

For Favor: Timothy Rice.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:0

Adopted by the Board of Standards and Appeals, December 23, 2003.

731-61-BZ

APPLICANT - Richard A. Kaplin, Esq., for McLaughlin & Sons, Inc., owner.

SUBJECT - Application October 24, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 31, 2001.

PREMISES AFFECTED - 9620 Third Avenue, 97th Street and Third Avenue, Block 6121, Lots 31 and 33, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Richard Kaplin.

ACTION OF THE BOARD - Laid over to February 3, 2004, at 10 A.M., for continued hearing.

27-00-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Emanuel N. Hartofilis, owner; Van Doren Oil Co., Inc. Lessee.

SUBJECT - Application October 28, 2003 - 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 - 110-35 Horace Harding Expressway, northwest corner of Van Doren Street, Block 1970, Lot39, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to February 10, 2004, at 10 A.M., for postponed hearing.

200-00-BZ

APPLICANT - The Agusta Group, for Blans Development Corp., owner.

436 Beach 29th Street, east side, 39.3" south of Brookhaven Avenue, Block 15793, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Adam Rothkrug.

SUBJECT - Application August 28, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 107-24 37th Avenue, aka 37-16 108th Street, southwest corner of 108th Street and 37th Avenue, Block 1773, Lot 10, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to February 10, 2004, at 10 A.M., for postponed hearing.

106-02-BZ

APPLICANT - Eric Palatnik, P.C., for Beth Jacobs of Boro Park Inc., owner.

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

PREMISES AFFECTED - 4502 14th Avenue a/k/a 1371 46th Street, 14th Avenue and 46th Street, Block 5617, Lots 38, 43, 50, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:0

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

123-03-A thru 127-03-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Collier Realty, LLC., owner.

SUBJECT - Application April 17, 2003 - Proposed construction of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

437 Beach 28th Street, west side, 141.5" south of Brookhaven Avenue, Block 15793, Lot 9, Borough of Queens.

435 Beach 28th Street, west side, 174.9" south of Brookhaven Avenue, Block 15793, Lot 10, Borough of Queens.

431 Beach 28th Street, west side, 200.2" south of Brookhaven Avenue, Block 15793, Lot 12, Borough of Queens.

434 Beach 29th Street, east side, 10" south of Brookhaven Avenue, Block 15793, Lot 48, Borough of Queens.

THE VOTE TO CLOSE HEARING -

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

Negative:0

ACTION OF THE BOARD - Laid over to January 27, 2004, at 10 A.M., for decision, hearing closed.

MINUTES

128-03-A thru 130-03-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Brookside Development Corp., owner.

SUBJECT - Application April 18, 2003 - Proposed construction of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

22 Brookside Loop, west side, 162' south of Woodrow Road, Block 7022, Lot 5, Borough of Staten Island.

26 Brookside Loop, west side, 25.5' south of Woodrow Road, Block 7022, Lot 8, Borough of Staten Island.

30 Brookside Loop, west side, 341.5' south of Woodrow Road, Block 7022, Lot 10, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING -

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

Negative:0

ACTION OF THE BOARD - Laid over to January 27, 2004, at 10 A.M., for decision, hearing closed.

297-03-A

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

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

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

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Peter Geis and Howard Hornstein.

THE VOTE TO REOPEN HEARING -

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

Negative:0

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner

ACTION OF THE BOARD - Laid over to January 27, 2004, at 10 A.M., for decision, hearing closed.

336-03-A

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

SUBJECT - Application October 28, 2003 - Proposed 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.

Caliendo and Commissioner Miele.....4

Negative:0

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

334-03-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Theresa McKeever, lessee.

SUBJECT - Application October 28, 2003 - Proposed second story enlargement, to an existing one family dwelling, located within the bed of a mapped street, not fronting on a legally mapped street, and has an upgraded private disposal system in the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law, and Department of Buildings' Policy.

PREMISES AFFECTED - 40 Graham Place, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

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

Negative:0

ACTION OF THE BOARD - Laid over to January 27, 2004, at 10 A.M., for decision, hearing closed.

335-03-A

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

SUBJECT - Application October 28, 2003 - Proposed enlargement, to an existing one family dwelling, located within the bed of a mapped street, not fronting on a legally mapped street, and has an upgraded private disposal system in the bed of a private service road, is contrary to Sections 35 and 36, Article 3 of the General City Law, and Department of Buildings' Policy.

PREMISES AFFECTED - 47 Tioga Walk, east side, 110.96 south of Sixth Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

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

Negative:0

PREMISES AFFECTED - 112 Beach 216th Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

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

Negative:0

ACTION OF THE BOARD - Laid over to January 27, 2004, at 10 A.M., for decision, hearing closed.

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Pasquale Pacifico, Executive Director.

Adjourned: 10:40 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, DECEMBER 23, 2003
2:00 P.M.**

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

ZONING CALENDAR

185-02-BZ

CEQR #02-BSA-220K

APPLICANT - Sheldon Lobel, P.C., for North Ninth Street Realty, LLC, owner.

SUBJECT - Application June 5, 2002 - under Z.R. §72-21 to permit in an M1-2 zoning district, to permit the conversion to residential use of an existing industrial/commercial building, contrary to Z.R. §42-00.

PREMISES AFFECTED - 93/101 North Ninth Street, north side, between Wythe Avenue and Berry Street, Block 2303, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 17, 2002, acting on Application No. 301038464 reads:

“Proposed residential use is not permitted in M1-2 zoning district and is subject to approval by the

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with an as-of-right development would not yield a reasonable return; and

WHEREAS, the record indicates that numerous residential buildings are located in the same M1-2 zone as the premises, and in the M3-1 zone across Wythe Avenue; and

WHEREAS, in response to Board concerns, the original application for a four-story building has been modified by eliminating the fourth floor and half of the third floor; and

WHEREAS, the applicant will provide sound attenuation in the building to mitigate any potential noise

Board of Standards and Appeals”; and

WHEREAS, a public hearing was held on this application on November 26, 2002 after due notice by publication in *The City Record*, and laid over to February 4, 2003, March 18, 2003, May 6, 2003, June 24, 2003, August 5, 2003, September 9, 2003, October 7, 2003, and then to November 5, 2003 for decision; the decision was then deferred to December 23, 2003; 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 Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-2 zoning district, the conversion an existing industrial/commercial building to residential use, contrary to Z.R. §42-00; and

WHEREAS, the subject site is located on a narrow street (North 9th Street, which is only 60 feet wide), and is presently improved with a renovated one-story industrial/commercial building; and

WHEREAS, the record indicates that the building was renovated and divided into five commercial stores, has been marketed for as-of-right uses, but has only been able to secure one conforming tenant; and

WHEREAS, the applicant notes that the aforementioned renovation was costly, as it required the removal of a fuel tank and analysis of the soil; and

WHEREAS, moreover, the evidence indicates that the site is inadequate for the truck loading and maneuvering required by modern manufacturing uses; and

WHEREAS, the subject parcel is surrounded by residential development; and

WHEREAS, the record indicates that the subject building is opposite the Williamsburg Special Northside Mixed Use District, which the applicant represent has encouraged many owners to convert old manufacturing buildings to residential uses; and

WHEREAS, the applicant has provided the Board with documentation of attempts to market the property for conforming uses; and

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

impact from the manufacturing use adjacent to the subject site; and

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

MINUTES

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

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

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and *grants* a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in an M1-2 zoning district, to permit the conversion to residential use of an existing industrial/commercial building, contrary to Z.R. §42-00, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 2, 2003"- (3) sheets, and "November 25, 2003"- (7) sheet(s), *on further condition*;

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

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

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

THAT noise attenuation will be provided as per BSA plans;

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

THAT a new certificate of occupancy will be obtained within four years of the date of this grant;

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M2-1 zoning district, the conversion of an existing six-story industrial building to residential use, contrary to Z.R. §42-00; and

WHEREAS, the subject lot is 61,546 sq. ft., and is occupied by a six-story building formerly used as a warehouse for over ten years, but which has now been vacant for the last two years; and

WHEREAS, the applicant originally proposed to add three stories to the building, but during the course of the hearing process amended the proposal to eliminate this aspect; and

WHEREAS, the applicant states that the following are unique physical conditions related to the subject building: the majority of the building's square footage is massed on

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, December 23, 2003.

256-02-BZ

CEQR #03-BSA-039K

APPLICANT - Law Offices of Howard Goldman, PLLC, for 160 Imlay Street Real Estate LLC, owner.

SUBJECT - Application September 18, 2002 - under Z.R. §72-01 to permit the proposed development of a vacant six story manufacturing building, and the addition of three floors, for residential use, Use Group 2, located in an M2-1 zoning district, which is contrary to Z.R. §42-00 and §43-00.

PREMISES AFFECTED - 160 Imlay Street, bounded by Imlay, Verona and Commerce Streets, and Atlantic Basin, Block 515, Lot 75, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted.

THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative: Chairman Chin.....1

THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner, dated September 9, 2002, acting on Application No. 301396790 reads, in part:

"Proposed residential use . . . is not permitted in an M2-1 zoning district as per Sec. 42-00 . . . of the New York City Zoning Resolution.;" and

WHEREAS, a public hearing was held on this application on March 5, 2003 after due notice by publication in *The City Record*, and laid over to May 21, 2003, August 13, 2003, and November 18, 2003, and then to December 23, 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 Peter Caliendo and Commissioner Joel Miele; and

the upper floors, rendering it less desirable to modern manufacturing concerns that require ground level space for immediate truck access; each floor is unimproved and broken up by numerous support columns, making the installation of modern manufacturing equipment or movement of bulk storage impossible; there is only one at grade loading dock that meets current zoning requirements, which is inadequate to serve a building of this size; the six other above grade loading docks are small by today's modern manufacturing standards; the wiring, mechanicals, and elevators are antiquated; and the ceiling heights are insufficient for the storage and maneuvering of bulk goods; and

WHEREAS, the applicant has submitted supplemental evidence, in the form of a letter from Cetra/Ruddy

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Incorporated, stating that the building's floor size, column spacing, floor height and loading docks do not meet modern manufacturing standards; and

WHEREAS, the applicant has submitted supplemental evidence, in the form of a letter from KTR Newark, stating that the elevators and wiring within the building do not meet modern manufacturing standards; and

WHEREAS, the applicant has submitted supplemental evidence, in the form of a letter from R & O Consulting, stating that a reconfiguration of the building, including demolition of the second floor slab and elimination of columns, would be cost prohibitive and require significant bracing and foundation work; and

WHEREAS, the opposition contends that the physical conditions alleged to be unique by the applicant, such as the ceiling heights, the loading docks, and the wiring, are typical of industrial buildings throughout manufacturing districts in the City of New York, and that the building's loading docks are in fact adequate for modern loading purposes; and

WHEREAS, however, the Board notes that it often considers a building's obsolescence for conforming uses, if substantiated by evidence, to be the basis for a finding of unique physical conditions; and

WHEREAS, the applicant provided the Board with evidence documenting attempts to market the property for conforming uses for the past two years, in the form of a letter from Cushman and Wakefield; and

WHEREAS, the opposition questions the validity of such marketing attempts, but the Board finds that the opposition's argument in this regard consists of uncorroborated testimony and submissions of community members and organizations; and

WHEREAS, the Board closely examined all of the above documents and finds that the applicant has submitted sufficient evidence demonstrating that developing the site with an as-of-right development would not yield a reasonable return, given the prohibitive costs associated with rehabilitating the building for such development, and that, consequently, the applicant has satisfied the finding set forth at Z.R. §72-21(b); and

WHEREAS, the record indicates that within a four hundred foot radius of the building there exists lawful non-conforming residential buildings, as well as low-rise manufacturing, warehouse, institutional, and retail uses; and

WHEREAS, the record also indicates that in the general vicinity of the building there exists a major housing project, and other residential and retail uses; and

WHEREAS, the Board observes that, in spite of the allegations of the opposition, the record is devoid of any credible evidence of adverse impact on the use or development of adjacent properties that would arise from the grant of the variance; and

WHEREAS, the Board has reviewed the submitted

WHEREAS, the applicant also provided the Board with an extensive list of prospective tenants who inspected the building but did not seek to lease any space in it; and

WHEREAS, the Board observes that the instant matter has been before it for approximately 1 year, with numerous public hearings, and the opposition has failed to produce or recommend tenants that would provide viable conforming uses for the building, especially for the upper floors, sufficient to bring a reasonable return; and

WHEREAS, therefore, the Board finds the evidence of marketing attempts sufficient to show that a conforming tenant has been sought and that, in spite of reasonable efforts on the part of the owner, one has not been found; and

WHEREAS, the Board, based upon a review of the record and its site visit, finds that the applicant has submitted substantial evidence of unique physical conditions inherent to the building on the zoning lot, especially when such conditions are considered in the aggregate; that because of these unique physical conditions, practical difficulties and unique hardship arise in complying strictly with the applicable use provisions of the Zoning Resolution; and that, consequently, the applicant has satisfied the finding set forth at Z.R. §72-21(a); and

WHEREAS, the applicant submitted a feasibility study, purporting to show that because of the unique physical conditions of the building, a conforming use would not yield a reasonable return; and

WHEREAS, the opposition challenged the applicant's feasibility study as unsound in methodology, and commissioned its own report on the viability of the building for conforming use; and

WHEREAS, the applicant submitted a detailed response to the opposition's challenge; and land use maps and visited the neighborhood in person, and concludes that the character of the neighborhood is best described as mixed-use, and that residential use can be accommodated at the subject site without being detrimental to the public welfare; and

WHEREAS, the Board notes that, in response to its concerns as to the original proposal, the applicant has eliminated the request for additional floors, and will place conforming uses on the first floor, thereby minimizing the impact of the proposed residential use on other uses in the immediate vicinity, and creating a building more in keeping with the mixed-use character of the neighborhood; and

WHEREAS, therefore, the Board finds that there is substantial evidence showing that the proposed application, as modified by the applicant, 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 that, consequently, the applicant has satisfied the finding set forth at Z.R. §72-21(c); and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title and that, consequently, the applicant has satisfied the finding set

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forth at Z.R. §72-21(d); and

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief and that, consequently, the applicant has satisfied the finding set forth at Z.R. §72-21(e); and

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

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

WHEREAS, the project has been reviewed relative to the provisions of the City's Local Waterfront Revitalization Program (LWRP) and found to be consistent with LWRP policies; and

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

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration with the conditions noted below, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and *grants* a variation in the application of the Zoning Resolution, limited to the objection cited, to permit, in an M2-1 zoning district, the conversion an existing six-story industrial building to residential use, contrary to Z.R. §42-00, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 5, 2003"- (11)

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, December 23, 2003.

350-02-BZ

CEQR #03-BSA-090R

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Advance Investments, owner.

SUBJECT - Application November 25, 2002 - under Z.R. §73-27 to permit in a C1-1(R3-2) (SRD) Zoning District, the proposed use of an existing building as a funeral establishment, (Use Group 7) with accessory off-street parking for 24 automobiles is contrary to Z.R. §32-31.

PREMISES AFFECTED - 6389 Amboy Road, west side, 258' north of Weir Avenue, Block 7534, Lot 186, Borough of Staten

sheets, *on further condition*;

THAT the following activities shall be implemented prior to construction to ensure that there will not be any potential hazardous materials effects and/or impacts on the proposed residents: (1) Ground-penetrating radar to determine if the 20,000 gallon petroleum underground storage tank is located at the subject site. (2) Testing the fluid contained within the transformers for PCBs. (3) Phase II investigation to determine the nature and extent of the suspect liquid observed through a hole adjacent to the 20,00 gallon above-ground storage tank at the north end of the building;

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

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

THAT parking will be provided according to BSA approved plans;

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

THAT all exits from the commercial and residential spaces must comply with applicable provisions of the Building Code, with compliance to be determined by the Department of Buildings;

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

Island.

COMMUNITY BOARD #3SI

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

MINUTES

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 24, 2002, acting on Alt. I. Application No. 500478583 reads:

- “1.) THE PROPOSED CHANGE IN USE TO A FUNERAL ESTABLISHMENT, USE GROUP 7 ON THE FIRST AND SECOND FLOOR OF AN EXISTING MIXED BUILDING LOCATED IN A C1-1 OVERLAY IN R3-2 ZONE IS NOT PERMITTED AS-OF-RIGHT AND REQUIRES A SPECIAL PERMIT FROM THE BOARD OF STANDARDS AND APPEALS IN ACCORDANCE WITH SECTION 32-31 OF THE ZONING RESOLUTION.
- 2.) THERE ARE NO PARKING REGULATIONS FOR FUNERAL ESTABLISHMENTS IN C1-1 OVERLAY IN R3-2 DISTRICTS;” and

WHEREAS, a public hearing was held on this application on June 17, 2003 and then laid over to July 22, 2003 for decision, re-opened on August 5, 2003 and then laid over for decision on September 16, 2003, re-opened on that date and laid over for continued hearings on October 28, 2003, November 5, 2003 and December 9, 2003 and then to December 23, 2003 for decision; and

WHEREAS, the premises and surrounding area had a

WHEREAS, the third floor will also contain 1,502 square feet, to be used for accessory storage; and

WHEREAS, the site also contains a long parking area that will accommodate processional line-ups and provide twenty-four car unattended parking, which the applicant notes is more than required under applicable zoning regulations; and

WHEREAS, the applicant represents that parking for additional vehicles shall be accommodated with stacked, attended parking, when needed; and

WHEREAS, the Board notes that access to the parking area will continue to be provided by an easement between the applicant and Pleasant Plains Square; and

WHEREAS, the applicant has submitted a draft of the aforementioned easement and will provide a copy of the recorded easement to the Board's Executive Director; and

WHEREAS, the applicant has provided documentation that there are serious difficulties involved in locating the funeral establishment within a permitted district from which it could serve the needs of its prospective clientele; and

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

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-27 and 73-03.

Resolved that the Board of Standards and Appeals

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

WHEREAS, a special permit is sought under Z.R. §73-27 to permit, in a C1-1(R3-2) (SRD) Zoning District, the proposed use of an existing building as a funeral establishment (Use Group 7) with accessory off-street parking for 24 automobiles, contrary to Z.R. § 32-31; and

WHEREAS, the subject parcel is a deep lot with 65 feet of frontage along Amboy Road, and a 259 feet depth, for a total of 14,351 square feet of area, developed with an existing one and three-story building containing 7,413 square feet of area, approved for use as an eating and drinking establishment with two residences above; and

WHEREAS, the proposed facility will contain a total of 7,263 square feet of area, consisting of a first floor (4,259 square feet) housing two funeral chapels (each of which can be divided into two smaller chapels) a casket showroom, preparation room, bathrooms and an elevator; and

WHEREAS, the second floor will contain 1,502 square feet, housing a third single chapel and an administrative office; and

issues a Negative Declaration under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-27 to permit, in a C1-1(R3-2) (SRD) Zoning District, the proposed use of an existing building as a funeral establishment, (Use Group 7) with accessory off-street parking for 24 automobiles is contrary to Z.R. §32-31, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received December 19, 2002”- (6) sheets and “Received November 25, 2003” - (1) sheet; and *on further condition*;

THAT a copy of the recorded easement between the applicant and Pleasant Plains Square providing access to the parking area, be delivered to the Board's Executive Director by February 1, 2004;

THAT there shall be no queuing of processions on Amboy Road;

THAT the proposed development shall comply with the provisions of Local Law 58/87;

THAT the proposed development shall comply with the provisions of the Special South Richmond District;

THAT the applicant shall obtain a Freshwater Wetlands Permit from the New York State Department of Environmental Conservation, if such is required;

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

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

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

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;

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

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

Adopted by the Board of Standards and Appeals, December 23, 2003.

APPEARANCES - None.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative: Commissioner Miele.....1

Negative: Chairman Chin, Vice-Chair Babbar, and Commissioner Caliendo.....3

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 10, 2003 acting on Application No. 401591997 reads, in part:

- “1. One existing side yard is less than 8'-0” contrary to Section 24-35.
2. Floor area and cellar space of medical offices exceed 1,500 SF contrary to Section 22-14 of the Zoning Resolution.
3. Extension of existing non-complying 8 foot front yard is contrary to Section 24-34.”;

WHEREAS, a public hearing was held on this application on September 16, 2003 after due notice by publication in the City Record, and laid over to October 28, 2003 for continued hearing and then to December 23, 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 Joel Miele; and

WHEREAS, this is an application under Z.R. §§72-21 and 73-125 to permit the proposed conversion of the first floor and cellar of an existing one family dwelling, to medical offices, and also to add a two-story enlargement, to create space necessary for larger examination rooms, which creates non-compliances with respect to side yards,

131-03-BZ

CEQR #03-BSA-174Q

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

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

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

COMMUNITY BOARD #1Q

floor area ratio (“FAR”), front yard, floor area and cellar space, contrary to Z.R. §§24-35, 24-34, 22-14 and 24-161; and

WHEREAS, the Board notes that the subject application has a companion case on the Appeals calendar, Calendar No. 132-03-A, which requests a waiver of a Department of Buildings objection related to the construction classification of the dwelling and its location within a designated fire district; and

WHEREAS, the subject zoning lot has a lot area of 4000 square feet, and is occupied by a two-story with cellar, single-family dwelling, situated within an R2 zoning district; and

WHEREAS, the applicant represents that the instant application is for a variance under Z.R. §72-21, which would permit a non-complying rear yard, an extension of an existing non-complying front yard, and an increase in the maximum FAR for the entire building; and also for a special permit under Z.R. §73-125, which would permit a small enlargement creating more than the maximum floor area and cellar space allowed as-of-right for medical offices in an R2 zoning district; and

WHEREAS, the applicant states that the grants are necessary to accommodate the increased professional needs of two medical doctors, who are the current owners of the subject building; and

WHEREAS, as to the variance component of the application, the applicant contends that the subject zoning lot possesses unique physical conditions, in that the existing residential building is to remain, which does not provide adequate lot width, complying side yards or a complying front yard if the building is to be used as a community facility; and that the subject lot is irregular because of alleged uneven topography; and

MINUTES

WHEREAS, the Board, based upon its review of the evidence and upon their inspection of the site, disagrees that the alleged unique physical conditions are sufficient to meet the (a) finding, in that no showing has been made that the alleged topography of the site creates practical difficulties in complying with the zoning requirements as to yards, or that the proposed change in use can, in of itself, be the basis for creation of practical difficulties in complying with the zoning requirements as to yards; and

WHEREAS, therefore, the Board finds that the applicant has not met the finding set forth at Z.R. §72-21(a); and

WHEREAS, the applicant has submitted a cost estimate study and opinion letter in conjunction with the variance component of the instant application, which alleges that to modify the subject building to be in compliance with the zoning requirements for yards would create a 17 foot wide building that would not be functionally

WHEREAS, the Board finds that the applicant has submitted evidence demonstrating that the proposed variance, if granted, would not alter the character of the neighborhood, impair appropriate use or development of adjacent property, or be detrimental to the public welfare, sufficient to meet the finding set forth at Z.R. §72-21(c); and

WHEREAS, the applicant argues that the alleged hardship associated with complying use of the zoning lot is the result of the proposed conversion of the existing building to medical offices and the resulting non-compliance of the front and side yards; and

WHEREAS, the Board finds that the applicant fails to meet the finding set forth at Z.R. §72-21(d), in that whatever hardship allegedly exists is created only because of the owners' proposed conversion of the building to community facility use; and

WHEREAS, the Board finds that the applicant has not met the finding set forth at Z.R. §72-21(d); and

WHEREAS, the Board may only grant a variance provided that substantial evidence supporting each required finding has been submitted; and

WHEREAS, the Board finds that the applicant has not provided substantial evidence supporting the findings required for a variance, as set forth at Z.R. §72-21(a), (b), and (d); and

WHEREAS, pursuant to Z.R. §73-125, the Board may grant a special permit to allow medical offices or group medical offices with up to 6000 feet of floor area, provided certain findings are made; and

WHEREAS, the applicant contends that the findings set forth at Z.R. §73-125, which would permit the proposed enlargement and increase in floor area, are satisfied; and

WHEREAS, however, the applicant has not met the prerequisites for the variance component of the instant application; and

WHEREAS, the Board notes that the application as a

appropriate for the proposed medical office use; and

WHEREAS, the Board finds that the variance component of the application fails to meet the finding set forth at Z.R. §72-21(b), in that the zoning lot in question does not possess any unique physical conditions; and

WHEREAS, the Board finds that the applicant has not met the finding set forth at Z.R. §72-21(b); and

WHEREAS, the applicant contends that the proposed variance, if granted, would not alter the essential character of the neighborhood, in that the subject building has existed at its present site for many years, and is similar to the adjacent homes in height and character; and

WHEREAS, the applicant notes that the proposed use of the building is as-of-right in a the subject zoning district; and

whole depends on the grant of the variance, in that submitted plans showing the conversion and enlargement of the subject building assume that the variance will be granted; and

WHEREAS, the Board finds that the special permit component is mooted by the failure of the applicant to provide, in the estimation of a majority of the Board, sufficient evidence supporting the findings set forth at Z.R. §72-21, and that if the applicant desired to apply for the special permit and not the variance, new plans would necessarily have to be submitted in a separate application.

Resolved that the decision of the Borough Commissioner, described in part above, is sustained and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, December 23, 2003.

132-03-A

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

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

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

COMMUNITY BOARD #1Q

APPEARANCES - None.

MINUTES

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative: Commissioner Miele.....1

Negative: Chairman Chin, Vice-Chair Babbar, and Commissioner Caliendo.....3

THE RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated April 10, 2003, acting on Application No. 401591997 reads, in part:

“4. The conversion of a frame and brick building (class 11C) from a residence to doctor’s offices (occupancy group E) is not permitted

WHEREAS, this is an appeal brought under New York City Charter §666(6), challenging the above Department of Buildings determination in order to permit the conversion of a frame and brick building, in construction class IIC, from a residence to a doctor’s office (Occupancy Group E), inside a designated fire district, which is contrary to Table 4-1 and Building Code §27-302; and

WHEREAS, the Board notes that the subject application has a companion case on the zoning calendar, Calendar No. 131-03-BZ, which is for a variance under Z.R. §72-21 and special permit under Z.R. §73-125, to permit the proposed conversion of the first floor and cellar of an existing one family dwelling to medical offices, and to create an enlargement that would create space necessary for larger examination rooms; and

WHEREAS, the subject zoning lot has a lot area of 4000 square feet, and is occupied by a two-story with cellar, single-family dwelling, situated within an R2 zoning district; and

WHEREAS, the applicant represents that under BSA Calendar No. 1060-40-A, the Board allowed the construction of the subject building as a residence; and

WHEREAS, the applicant also represents that the cellar of the subject building has, in the past, been used by a physician; and

WHEREAS, the applicant proposes to install a non-automatic sprinkler system of the domestic lines in the cellar and the stairs, from the cellar to the 1st floor, and in the hallway and stairs leading to the 2nd floor, as well as smoke detectors; and

WHEREAS, pursuant to City Charter §666(7), the Board, in passing upon an appeal to vary or modify a provision of the Building Code, must find that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the law, so that the spirit of the law shall be observed, public safety secured and substantial justice done; and

WHEREAS, the Board finds that the applicant has failed to provide sufficient evidence to warrant the grant of the instant appeal, in that the alleged practical difficulties or unnecessary hardship was self-created by virtue of the owner’s proposed conversion of the building to doctor’s

inside the Fire District as per table 4-1 (section 27-302);” and

WHEREAS, a public hearing was held on this application on September 16, 2003 after due notice by publication in the City Record, and laid over to October 28, 2003 for continued hearing and then to December 23, 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 Joel Miele; and offices, and that substantial justice is therefore not done; and

Resolved that the decision of the Borough Commissioner, described in part above, is sustained and the subject appeal is hereby denied.

Adopted by the Board of Standards and Appeals, December 23, 2003.

298-03-BZ

CEQR #04-BSA-048M

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

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

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

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Howard Hornstein.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decisions of the Borough Commissioner, dated September 9, 2003 acting on Alteration Application No. 103550195 reads:

“THE PROPOSED ENLARGEMENT AT 260 PARK AVENUE SOUTH IS CONTRARY TO SECTION 23-145 OF THE NEW YORK ZONING RESOLUTION. THE ENLARGEMENT SQUARE FOOTAGE EXCEEDS THE MAXIMUM FLOOR

MINUTES

AREA PERMITTED.”

WHEREAS, a public hearing was held on this application on November 18, 2003 after due notice by publication in *The City Record*, and laid over to December 23, 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 Peter Caliendo, and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed enlargement of an existing eight

WHEREAS, the subject property consists of two tax and zoning lots, Lot 45 and Lot 43, which are currently improved with commercial buildings; and

WHEREAS, Lot 45 is an irregularly shaped lot located in an M1-5M zoning district within the Ladies' Mile Historic District and is improved with a 12 story commercial building; and

WHEREAS, Lot 43 is a rectangular lot located in a C6-4A zoning district and is currently improved with an 8 story commercial building; and

WHEREAS, the proposed project will convert the existing structures for residential use providing a shared ground floor entrance to the buildings, as well as retail space; and

WHEREAS, Lot 45 has 5,732 square feet of floor area which cannot be developed due to its location in a historic district; and

WHEREAS, the additional 5,732 square feet of floor area of Lot 45 cannot be transferred to Lot 43 without a variance, because such a transfer would exceed the allowable floor area of a C6-4A zoning district; and

WHEREAS, the proposed transfer of floor area will result in a total floor area ratio of 10.62, exceeding the permitted floor area ratio of the C6-4A zoning district by only .62; and

WHEREAS, the Board finds that there are unique physical conditions inherent to the lots, which create an unnecessary hardship in conforming strictly with the Zoning Resolution; and

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

WHEREAS, the Board notes that residential use is permitted within a C6-4A zoning district as-of-right; and

WHEREAS, the record indicates that the surrounding neighborhood is characterized by mixed-uses, and other buildings of a similar nature to that proposed; and

WHEREAS, the applicant also represents that proposed project is much smaller in scale than those buildings which surround it; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of

story building by allowing available floor area to cross district boundary lines from the adjacent building that is located in an M1-5M zoning district, to said premises that is located in a C6-4A zoning district, which would exceed the maximum floor area permitted, contrary to Z.R. §23-145; and

WHEREAS, a concurrent application is being filed at the Department of City Planning pursuant to Section 15-20(b) of the Zoning Resolution for an authorization waiving the use regulations of Section 15-21, which will permit residential use in floors 2-12 at 48 East 21st Street; and

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 this variance 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 Z.R. §72-21; and

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

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

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

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, the proposed enlargement of an existing eight story building by allowing available floor area to cross district boundary lines from the adjacent building that is located in an M1-5M zoning district to said premises that is located in a C6-4A zoning district, which would exceed the maximum floor area permitted and is contrary to Z.R. §23-145, 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 15, 2003”- (10) sheets and on further condition;

THAT a waiver of use regulations, pursuant to Section 15-20(b) is obtained from City Planning to permit residential use in the upper floors of 48 East 21st Street; THAT the premises shall be maintained free of debris

MINUTES

and graffiti;

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

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

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

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 including all fire safety and egress requirements, 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, December 23, 2003.

83-03-BZ

APPLICANT - The Augusta Group, for Ms. Hilda Lovera, owner.
SUBJECT - Application March 12, 2003 - under Z.R. §72-21 to permit the proposed construction of a two family dwelling, Use Group 2, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, front yard and the maximum number of dwelling units, which is contrary to Z.R. §23-141, §23-45 and §23-22.

PREMISES AFFECTED - 2100 Hermany Avenue, southeast corner of Olmstead Avenue, Block 3685, Lot 9, Borough of The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Sheldon Leffler.

ACTION OF THE BOARD - Laid over to January 13, 2004, at 1:30 P.M., for continued hearing.

84-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Nissan Perla, Partner: N.P. Holdings, LLC, owner.

SUBJECT - Application October 24, 2003 - under Z.R. §72-21 to permit the proposed nine (9) story plus penthouse residential building, Use Group 2, located in an R5, C1-2 overlay zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage, total height, perimeter wall height, lot area per dwelling unit and the required number of parking spaces, is contrary to Z.R. §23-141, §23-631, §23-222 and §25-521.

PREMISES AFFECTED - 35-40 30th Street, a/k/a 35-37 29th Street, between 35th and 36th Avenues, Block 341, Lot 6, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Jordan Most, George Stamatiades and Stephen Phanos.

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

For Opposition: Nita Whitney and Maura Stone.

ACTION OF THE BOARD - Laid over to February 24, 2004, at 1:30 P.M., for continued hearing.

92-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Parkside Inc., owner.

SUBJECT - Application March 25, 2003 - under Z.R. §73-52 to permit the proposed residential development of an entire zoning lot, on a lot divided by an R7-2 and M1-1 district boundary, which requires a special permit.

PREMISES AFFECTED - 472 West 130th Street, southwesterly corner of the intersection of West 130th Street and Convent Avenue, Block 1969, Lots 64, 67 and 68, Borough of Manhattan.

COMMUNITY BOARD #9M

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to February 3, 2004, at 1:30 P.M., for continued hearing.

133-03-BZ

APPLICANT - Harold Weinberg, P.E., for Natan Bukai, owner.

SUBJECT - Application April 22, 2003 - under Z.R. §73-622 to permit the proposed erection of an additional story, and a rear enlargement, to an existing two family dwelling, and to change the use of the altered premises to a one family residence, Use Group 1, which does not zoning requirements for floor area ratio and minimum rear yard, is contrary to Z.R. §23-141 and §54-31.

PREMISES AFFECTED - 2354 East 5th Street, west side, 100'-0" south of Avenue "W", between Avenue "W" and Angel Court, Block 7180, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to January 13,

MINUTES

2004, at 1:30 P.M., for decision, hearing closed.

APPLICANT - Harold Weinberg, P.E. & Jack Gamill, P.E., for Mordechai Beityakov, owner.

SUBJECT - Application June 20, 2003 - under Z.R. §73-622 to permit the proposed erection of a two-story enlargement, at the rear of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

PREMISES AFFECTED - 1455 East 24th Street, east side, 450' south of Avenue "N", Block 7678, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Harold Weinberg and Jack Gamill.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to January 13, 2004, at 1:30 P.M., for decision, hearing closed.

217-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mr. Vincenzo Adragna, owner.

SUBJECT - Application June 24, 2003 - under Z.R. §72-21 to permit the proposed one story and cellar expansion, of an existing one story and cellar retail building, Use Group 6, located in an R5 zoning district, which is contrary to Z.R. §52-22.

PREMISES AFFECTED - 140/42 Pennsylvania Avenue, southeast corner of Liberty Avenue, Block 3703, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES -

For Applicant: Richard Lobel and Joseph Barone.

ACTION OF THE BOARD - Laid over to February 3, 2004, at 1:30 P.M., for continued hearing.

238-03-BZ

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

SUBJECT - Application July 9, 2003 - under Z.R. §72-21 to permit the proposed side and rear enlargements, to an existing synagogue and parsonage, Use Group 4, located in an R3-2 zoning

210-03-BZ

district, which does not comply with the zoning requirements for floor area ratio, lot coverage, side and rear yards, is contrary to Z.R. §24-11, §24-35 and §24-36.

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

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to January 6, 2004, at 1:30 P.M., for decision, hearing closed.

265-03-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for 2856-2860 Steinway Street, LLC by Lloyd Goldman, owner; TSI Astoria Inc. d/b/a New York Sports Club, lessee.

SUBJECT - Application August 21, 2003 - under Z.R. §73-36 to permit the proposed physical culture establishment, located on the second and third floors of an existing three story commercial structure, situated within C2-2 and C4-2A zoning districts.

PREMISES AFFECTED - 28-56/60 Steinway Street, northwest corner of 30th Avenue, Block 662, Lot 41, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to January 13, 2004, at 1:30 P.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 2:30 P.M.

CORRECTIONS

***CORRECTION**

These resolution adopted on January 7, 2003, under Calendar No. 111-94-BZ and printed in Volume 88, Bulletin Nos. 1-3, is hereby corrected to read as follows:

111-94-BZ

APPLICANT - Jay Segal, Esq., Greenberg Traurig, LLP, for 25-02 Eighth Avenue Corp., owner.

SUBJECT - Application March 29, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of special permit which expired April 5, 2000.

PREMISES AFFECTED - 3543-49 Broadway, northwest intersection of Broadway and West 145th Street, Block 2092, Lot 26, Borough of Manhattan.

COMMUNITY BOARD #9M

APPEARANCES -

For Applicant: Jay Segal.

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

THE VOTE TO GRANT -

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

Negative:0

Absent: Chairman Chin, Vice-Chair Babbar.....2

THE RESOLUTION -

WHEREAS, the application seeks to waive the Rules of Practice and Procedure and to extend the term of the special permit which expired on April 4, 2000; and

WHEREAS, a public hearing was held on this application on November 11, 2002, after due notice by publication in The City Record, and laid over to December 10, 2002 and then to January 7, 2003 for decision; and

WHEREAS, on April 4, 1995, the Board granted an application under Z.R. §73-42, to permit the expansion of an existing commercial use into a residential district, by the legalization of an accessory parking lot; and

WHEREAS, the applicant represents that there have been no substantial changes from previously approved Board plans.

Resolved, that the Board of Standards and Appeals Waives the Rules of Practice and Procedure and reopens and amends the resolution, adopted on April 4, 1995 so that as amended this portion of the resolution shall read:

" To extend the term of the variance for a period of five (5) years from April 4, 2000 to expire on April 4, 2005; on condition

THAT the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received January 6, 2002"- (4) sheets; and that other than as herein amended the resolution above cited shall be complied with in all respects; and on further condition

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

THAT the 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 N.B. Application No. 100494635)

Adopted by the Board of Standards and Appeals, January 7, 2003.

****The resolution has been corrected to remove the condition which read: "THAT a License from the Department of Consumer Affairs shall be obtained within one year from the date of this grant, and that a copy of the License shall be forwarded to the Board's Executive Director by January 7, 2004". Corrected in Bulletin No. 53, Vol. 88, dated January 1, 2004.**

***CORRECTION**

These resolution adopted on November 18, 2003, under Calendar No. 233-01-BZ and printed in Volume 88, Bulletin No. 47, is hereby corrected to read as follows:

233-01-BZ

APPLICANT - Irving Minkin, Esq., for Heller Realty Corporation, owner.

SUBJECT - Application July 9, 2001 - under Z.R. §72-21, to permit the proposed construction of a mixed use 16 story commercial/residential building, Use Groups 2 and 6, in an M1-5 zoning district, in which the residential use with accessory off street parking spaces is not permitted, and also does not meet the zoning requirement for outer courts, which is contrary to Z.R. §42-10, §13-11, §13-12 and §23-84.

PREMISES AFFECTED - 537 West 19th Street, northwest corner of 11th Avenue, Borough of Manhattan. **COMMUNITY**

CORRECTIONS

BOARD #4M

APPEARANCES -

For Applicant: Irving Minkin and Ken Heller.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar and

Commissioner Caliendo.....0

Negative:3

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 11, 2001 acting on Application No. 102291280, reads:

"1) PROPOSED RESIDENTIAL USE (USE GROUP 2) IN AN M1-5 IS NOT PERMITTED PURSUANT TO 42-10 Z.R.

2) THERE ARE NO APPLICABLE BULK OR PARKING REGULATIONS FOR RESIDENTIAL USES IN AN M1-5 DISTRICT.

3) ACCESSORY OFF STREET PARKING SPACES ARE NOT PERMITTED AS SHOWN ON PLANS PURSUANT TO 13-11 / 13-12 ZR.

4) THE WIDTHS OF THE OUTER COURTS ARE CONTRARY TO 23-84 ZR."; 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, March 4, 2003, June 17, 2003, August 12, 2003, November 5, 2003 and then to November 18, 2003 for decision; and

WHEREAS, the site and surrounding area have had numerous site and neighborhood examinations by a committee of the Board consisting of Chairman James Chin, Vice Chairman Satish Babbar, Commissioner Joel Miele, and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21 for the construction of a proposed sixteen-story mixed use commercial and residential building, Use Groups 2 and 6, in an M1-1 Zoning District, in which a residential use with accessory off street parking is not permitted and which does not meet the zoning requirements for outer courtyards, contrary to Z.R. §42-10, §13-11, §13-12 and §23-84; and

WHEREAS, the subject zoning lot has a total lot area of 12,529.4 square feet, is currently being used for public parking (Use Group 8), and is improved with a small attendant's booth, paved areas and lighting fixtures; and

WHEREAS, the applicant contends that due to the location of the site across West Street from the Chelsea Piers amusement center "with a massive bulk with a height of 80 feet," a low-rise residence would be esthetically unmarketable; and

WHEREAS, though the Board has no opinion as to the merit of the assertion above, it notes that the applicant has failed to document why the site could not support an as-of-right manufacturing or commercial building, where esthetics and window views are far less imperative for marketability; and

WHEREAS, the record shows a long history of automotive and commercial uses on the subject property; and

WHEREAS, the record indicates that within a 400 foot radius, the subject property is surrounded by numerous garages, warehouses, parking facilities and commercial properties; and

WHEREAS, the Board notes that the area within an 800 foot radius is still dominated by manufacturing, commercial and warehouse uses; and

WHEREAS, the proposed building rises to a height of 185 feet; and

WHEREAS, the Board notes that the surrounding area is comprised mostly of low rise development with the exception of a small amount of buildings; and

WHEREAS, the Board finds that, if constructed, the proposed building would tower over all of the other buildings within a 800 foot radius, exceeding the next highest building by 45 feet; and

WHEREAS, the proposed building has an Floor Area Ratio ("FAR") of 9.81 while the underlying zoning district regulations permit a maximum FAR of 5.0 for commercial and manufacturing uses and 6.5 for community facility uses; and

WHEREAS, on the plans submitted to the Board on October 9, 2003, the applicant claims that the equivalent residential zoning designation for a M1-5 district is an R10 zoning district, which permits an FAR of 10.0; and

WHEREAS, on the aforementioned plans, the applicant further asserts states that since the proposed FAR of 9.81 is less than 10, that this bulk is "THEREFORE O.K."; and

WHEREAS, the Board is unaware of any section of the New York City Zoning Resolution which supports the applicant's assertion regarding equivalent zoning designations for manufacturing districts and therefore, the Board finds no merit in the applicant's contention that the proposed FAR is acceptable; and

WHEREAS, for the foregoing reasons the Board finds that the proposed application would alter the essential character of the surrounding neighborhood; and

WHEREAS, therefore, the subject application fails to meet the requirements of Z.R. §72-21(c) and it must be denied.

CORRECTIONS

Resolved, the decision of the Borough Commissioner, dated June 11, 2001 acting on Application No. 102291280 must be sustained and the application denied.

Adopted by the Board of Standards and Appeals, November 18, 2003.

****The resolution has been corrected to reflect the Board's actual vote. Corrected in Bulletin No. 53, Vol. 88, dated January 1, 2004.**

*CORRECTION

These resolution adopted on May 6, 2003, under Calendar No. 82-02-BZ and printed in Volume 84, Bulletin No. 20, is hereby corrected to read as follows:

82-02-BZ

CEQR#02-BSA-155K

APPLICANT - Sheldon Lobel, P.C., for Sholem Freund, owner.
SUBJECT - Application August 8, 2002 - under Z.R. §72-21, to permit the proposed construction of a four story residential building, in a manufacturing (M1-2) zoning district, which also exceeds the maximum permitted floor area ratio, lot coverage and rear yard, which is contrary to Z.R. §42-00, §23-145 and §23-47.

PREMISES AFFECTED - 788 Kent Avenue, 25' south of Little Nassau Street, Block 1883, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Sheldon Lobel.

ACTION OF THE BOARD - Application granted on condition THE VOTE TO GRANT-

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 17, 2002 acting on N.B. Application No. 301293785 reads: "PROPOSED SCOPE OF WORK IS CONTRARY TO ZR 42-00 IN THAT USE GROUP 2 (RESIDENTIAL IS NOT A PERMITTED USE IN AN M1-2 ZONIG DISTRICT"; 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 February 4, 2003, March 18, 2003, April 15, 2003 and then to May 6, 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, former Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21 to permit, in an M1-2 zoning district, the erection of a four-story multiple dwelling (Use Group 2), which exceeds the maximum permitted floor area ratio, lot coverage and rear yard contrary to Z.R. §§42-00, 23-145 and 23-47; and

WHEREAS, the subject site is located on Kent Avenue with frontages on Little Nassau Street and Park Avenue containing 2,500 square feet of lot area improved with a non-conforming two-story with cellar, two family dwelling; and

WHEREAS, the record indicates that the subject block contains single family, multiple dwellings, religious uses and a funeral home, and that out of the existing eleven 25' lots, five have buildings that span at least two lots and three are vacant; and

WHEREAS, the applicant represents that to the south and west, the premises abuts lots housing residential uses and it would it would more detrimental to develop the property with a manufacturing use in a building that houses residential and community facility uses; and

WHEREAS, evidence in the record indicates that the lot is underdeveloped when compared to the permitted manufacturing floor area and when compared with the lot area for the closest residential, R7, zone; and

WHEREAS, the Board finds that there are unique conditions to the lot, namely the history of development with a non-conforming use and its close proximity to other residential developments create an undue hardship and a practical difficulty in complying with the current zoning; 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 a mixture of residential, community facility, commercial/light manufacturing uses; and

WHEREAS, the Board notes that there are residential uses in close proximity to the subject site, and there are no manufacturing uses adjacent to the site; and

CORRECTIONS

WHEREAS, therefore, the Board finds that the proposed development will neither alter the essential character of the neighborhood, nor impair the appropriate use or development of adjacent property 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 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 M1-2 zoning district, the erection of a four-story multiple dwelling (Use Group 2), which exceeds the maximum permitted floor area ratio, lot coverage and rear yard contrary to Z.R. §§42-00, 23-145 and 23-47, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked Received "April 4, 2003"-(6) sheets; and on further condition;

THAT in accordance with the Board-approved plans, the premises shall provide and maintain the following:

(1) Entire building shall be fully sprinklered with an automatic wet sprinkler system connected to a Fire Department-approved Central Monitoring Station.

(2) Residential smoke detection system connected to a Fire Department-approved Central Monitoring Station shall be hardwired and be compliant with Local Law 62/81;

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, May 6, 2003.

****The resolution has been corrected in that the portion which read: "...six story multiple dwelling.." now reads: "...four story multiple dwelling...". Corrected in Bulletin No. 53, Vol. 88, dated January 1, 2004.**

*CORRECTION

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

150-02-BZ

CEQR #02-BSA-197R

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

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

PREMISES AFFECTED - 1837 Richmond Avenue, southeast corner of Eton Place, Block 2030, Lot 60, Borough of Staten Island.

COMMUNITY BOARD #2S.I.

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Commissioner Miele.....5
Negative:.....0

CORRECTIONS

THE RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated May 3, 2002 acting on Application No. 500509782 reads:

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

WHEREAS, a public hearing was held on this application on January 14, 2003 after due notice by publication in the *City Record*, and laid over to February 25, 2003 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, to permit, in an R3-2 zoning district, the construction of two one-story buildings one housing a 7,326 square foot eating and drinking establishment, and the other housing a 3,831 square foot bank contrary to Z.R. §22-10; and

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

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

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

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

WHEREAS, the evidence indicates that Richmond Avenue has transformed from a main thoroughfare to a commercial arterial roadway, developed on both sides with

as-of-right or legal non-conforming professional offices, retail establishments or community facility uses; and

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

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

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

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

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

WHEREAS, therefore, the Board finds that the introduction of an eating and drinking establishment and a bank use at the subject premises will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, on a site previously before the Board, to permit, in an R3-2 zoning

district, the construction of two one-story buildings one housing a 7,326

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square foot eating and drinking establishment, and the other housing a 3,831 square foot bank contrary to Z.R. §22-10, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 23, 2002"- (2) sheets and "January 28, 2003"- (1) sheet; and on further condition;

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

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

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, February 25, 2003.

****The resolution has been corrected to change the Lot No. which read: "Lot 68 " now reads: "Lot 60". Corrected in Bulletin No. 53, Vol. 88, dated January 1, 2004.**

*CORRECTION

This resolution adopted on September 30, 2003, under Calendar No. 212-02-BZ and printed in Volume 88, Bulletin Nos. 40-41, is hereby corrected to read as follows:

212-02-BZ

CEQR #03-BSA-012Q

APPLICANT - Sheldon Lobel, P.C., for Mark Grane, owner.

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

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

COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 13, 2002, acting on Application No. 401397886 reads:

- "1. Proposed total floor area of the building exceeds the maximum permitted for a mixed building and is therefore contrary to Section 35-32 of the Zoning Resolution.
2. Proposed lot coverage of residential portion of the building exceeds the maximum lot coverage permitted by Section 23-141 of the Zoning Resolution.
3. Proposed open space for the residential portion of the building does not meet the minimum open space required by Section 23-141 of the Zoning Resolution.
4. Proposed number of dwelling units in the mixed building does not meet the minimum lot area per dwelling unit required pursuant to

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Sections 23-22 and 35-40 of the Zoning

WHEREAS, a public hearing was held on this application on May 20, 2003, after due notice by publication in *The City Record*, and laid over to June 24, 2003, August 5, 2003, and then to September 30, 2003 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit a two-story and cellar mixed-use building with commercial use on the ground floor and residential use on the second floor, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space ratio, and lot area per dwelling unit, contrary to Z.R. §§35-32, 23-141, 23-22 and 35-40; and

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

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

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

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

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

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

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

Resolution.”; and

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

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

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

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

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

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

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

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and *grants* a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in an R5 zoning district with a C1-2 commercial overlay, a two-story and cellar mixed use building with commercial use on the ground floor and residential use on the second floor, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space ratio, and lot area per dwelling unit, contrary to Z.R. §§35-32, §23-141, §23-22 and §35-40, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received July 15, 2002”- (3) sheets, “September 2, 2003”- (1) sheet and “September 23, 2003”-(2) sheets and *on further condition*;

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

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

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

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

THAT Lots 49 and 50 of Block 3827 share common

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

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

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exits;

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

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

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

****The resolution has been corrected in that the Application No. which read: "401397010" now reads: "401397886". Corrected in Bulletin No. 53, Vol. 88, dated January 1, 2004.**