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# BULLETIN

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

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Volume 89, Nos. 20-21

May 20, 2004

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### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

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

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**Pasquale Pacifico, *Executive Director***

**Roy Starrin, *Deputy Director***

**John E. Reisinger, *Counsel***

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<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

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**Affecting Calendar Numbers:**

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390-03-BZ	95 Dobbin Street, Brooklyn

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# DOCKETS

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New Case Filed Up to May 11, 2004

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**168-04-BZ** B.M. 500 Canal Street,  
(a/k/a 471 Greenwich Street), triangle bounded by Canal,  
Watts and Greenwich Streets, Block 594, Lots 1 and 3,  
Borough of Manhattan. Applic. #103723320. Proposed  
construction of an eight story building, with residential use  
on its upper seven floors, in an M1-5 zoning district, within  
the Special Tribeca Mixed Use District, is contrary to Z.R.  
§111-02.

**COMMUNITY BOARD #1M**

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**169-04-BZ** B.Q. 103-16 Roosevelt  
Avenue,  
(103-12/24 Roosevelt Avenue; 103-19/31 41<sup>st</sup> Avenue),  
mid-block on a through lot between Roosevelt Avenue, 41<sup>st</sup>  
Avenue, National Street and 104<sup>th</sup> Street, Block 1975, Lot  
9, Borough of Queens. Applic. #401858520. Proposed  
re-development of a mixed use building, which does not  
comply with the zoning requirements for commercial floor  
area, commercial uses above the second floor, off-street  
parking and loading berths, is contrary to Z.R. §54-31, §33-  
121, §33-431, §36-21 and §36-62.

**COMMUNITY BOARD #4Q**

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**170-04-BZ** B.BK. 2409 Avenue "K",  
north side, 53.0' east of East 24<sup>th</sup> Street, Block 7606, Lot  
6, Borough of Brooklyn. Applic. #301773132. Proposed  
enlargement of an existing one family residence, which  
does not comply with the zoning requirements for floor area  
ratio and open space ratio, is contrary to Z.R. §23-141.

**COMMUNITY BOARD #14BK**

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**171-04-A** B.Q. 42 Olive Walk,  
west side, 99.25' south of Oceanside Avenue, Block  
16350, Lot 400, Borough of Queens. Alt.1 #401833735.  
Proposed alteration of an existing one family dwelling, not  
fronting on a legally mapped street, is contrary to Section  
36, Article 3 of the General City Law.

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**172-04-BZ** B.BK. 59 Kent Street,  
north side, 100' east of West Street, Block 2549, Lot 36,  
Borough of Brooklyn. Applic. #301431537. Proposed  
conversion a vacant warehouse building, into a residential  
building (22 dwelling units), Use Group 2, located in an M1-  
1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #1BK**

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**173-04-BZ** B.M. 5/9 West 37<sup>th</sup> Street,  
200' east of Fifth Avenue, Block 839, Lot 34, Borough of  
Manhattan. Applic. #103715838. The proposed utilization  
of a portion of the cellar level of said premises, as a  
physical culture establishment, located in an M1-6 zoning  
district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #5M**

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**174-04-BZ** B.M. 124 West 24<sup>th</sup> Street,  
south side, between Sixth and Seventh Avenues, Block  
799, Lot 54, Borough of Manhattan. Applic. #103766596.  
Proposed conversion of floors two through six, to  
residential use, Use Group 2, in an existing six-story  
commercial building, located in an M1-6 zoning district, is  
contrary to Z.R. §42-00.

**COMMUNITY BOARD #4M**

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**175-04-BZ** B.Q. 7-05 130<sup>th</sup> Street,  
east side, Block 3982, Lot 70, Borough of Queens. N.B.  
#401840941. Proposed erection and maintenance of a two family  
dwelling, Use Group 2, which does not comply with the zoning  
requirements for floor area, floor area ratio, lot coverage, open  
space, perimeter wall height and rear yard, is contrary to Z.R. §23-  
141, §23-631 and §23-47.

**COMMUNITY BOARD #7Q**

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**176-04-BZ** B.Q. 7-09 130<sup>th</sup> Street,  
east side, Block 3982, Lot 67, Borough of Queens. N.B.  
#401840923. Proposed erection and maintenance of a two family  
dwelling, Use Group 2, which does not comply with the zoning  
requirements for floor area, floor area ratio, lot coverage, open  
space, perimeter wall height and rear yard, is contrary to Z.R. §23-  
141, §23-631 and §23-47.

**COMMUNITY BOARD #7Q**

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**177-04-BZ** B.Q. 7-13 130<sup>th</sup>  
Street,  
east side, Block 3982, Lot 65, Borough of Queens. N.B.  
#401840932. Proposed erection and maintenance of a  
two family dwelling, Use Group 2, which does not comply  
with the zoning requirements for floor area, floor area ratio,  
lot coverage, open space, perimeter wall height and rear  
yard, is contrary to Z.R. §23-141, §23-631 and §23-47.

**COMMUNITY BOARD #7Q**

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# DOCKETS

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**178-04-BZ** B.Q. 7-04 130<sup>th</sup>  
Street,

west side, Block 3980, Lot 66, Borough of Queens. N.B. #401839926. Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage and minimum required open space is contrary to Z.R. §23-141.

**COMMUNITY BOARD #7Q**

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**179-04-BZ** B.Q. 7-06 130<sup>th</sup> Street,  
west side, Block 3980, Lot 68, Borough of Queens. N.B. #401839917. Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage and minimum required open space is contrary to Z.R. §23-141.

**COMMUNITY BOARD #7Q**

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**180-04-BZ** B.Q. 7-12 130<sup>th</sup>  
Street,

west side, Block 3980, Lot 72, Borough of Queens. N.B. #401839908. Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage and minimum required open space is contrary to Z.R. §23-141.

**COMMUNITY BOARD #7Q**

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**181-04-BZ** B.Q. 7-14 130<sup>th</sup>  
Street,

west side, Block 3980, Lot 74, Borough of Queens. N.B. #401839891. Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage and minimum required open space is contrary to Z.R. §23-141.

**COMMUNITY BOARD #7Q**

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**182-04-BZ** B.M. 351/53 West 14<sup>th</sup> Street,  
north side, between Eighth and Ninth Avenues, Block 738, Lot 8, Borough of Manhattan. Applic. #103733295. Proposed eating and drinking establishment (comedy theater), Use Group 12, on a zoning lot, split between a C6-2A and R8B zoning district, of which a portion is located in the R8B district, is contrary to Z.R. §22-10.

**COMMUNITY BOARD #4M**

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**183-84-BZ** B.M. 206 West 23<sup>rd</sup>  
Street,

south side, between Seventh and Eighth Avenues, Block 772, Lot 52, Borough of Manhattan. Applic. #103536023. Proposed physical culture establishment on the second floor of a five story commercial building, located in a C6-3X zoning district, requires a special permit as per Z.R. §32-10.

**COMMUNITY BOARD #4M**

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**184-04-BZ** B.BX. 1824 Bronxdale Avenue,  
east side, 251' north of Morris Park Avenue, Block 4123, Lot 42, Borough of The Bronx. Alt. #200749538. Proposed addition of a second floor, to be used as accessory offices, in conjunction with the community center on the first floor, located in an R4 zoning district, which does not comply with the zoning requirements for lot coverage, front, side and rear yards, is contrary to Z.R. §54-31, §24-11, §24-34 and §24-37.

**COMMUNITY BOARD #11BX**

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**185-04-BZ** B.BK. 2275 East Second  
Street,

between Avenue "W" and Gravesend Neck Road, Block 7154, Lot 64, Borough of Brooklyn. Alt. #301664982. Proposed enlargement of an existing two family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, rear and side yards, is contrary to Z.R. §23-141, §23-47 and §23-461.

**COMMUNITY BOARD #15BK**

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**186-04-A** B.Q. 252-18 Rockaway  
Boulevard, corner of Dock Street, Block 13921, Lot 73, Borough of Queens. Applic. #401843500. Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**187-04-BZ** B.BK. 182 Malcolm X Boulevard,  
north west corner of Madison Street, Block 1642, Lot 48, Borough of Brooklyn. N.B. #301663313. Proposed construction of a four story building, with eight dwelling units, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for lot

coverage, floor area, front yards, parking, height and perimeter wall, also the number of dwelling units, is contrary to Z.R. §23-141(c), §23-631(e), §23-45(a), §25-23(a) and §23-22.

**COMMUNITY BOARD #3BK**

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# DOCKETS

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**188-04-BZ**            B.BK.            1378 East 28<sup>th</sup>  
Street,

west side, 130' north of Avenue "N", Block 7663, Lot 82, Borough of Brooklyn. Applic. #301738813. The legalization of an enlargement to an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141(a), §23-47 and §23-48.

**COMMUNITY BOARD #14BK**

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**189-04-BZ**            B.BX.            3445 White Plains Road,  
445.2' south of Magenta Street, Block 4628, Lot 47, Borough of The Bronx. Applic. #200774475, Borough of The Bronx. The legalization of an existing two story building, used for a school and day care center, Use Group 3, with an unenclosed use (open playground), located in a C8-1 zoning district, requires a special permit from the Board as per §32-30, §32-31, §32-12 and §32-412.

**COMMUNITY BOARD #12BX**

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**190-04-BZ**            B.BK.            2184 Mill Avenue,  
a/k/a 6001 Strickland Avenue, southwest corner, Block 8470, Lot 1090, Part of Lot 1091, Borough of Brooklyn. Alt. #301660931. Proposed conversion of a former lead factory, into a multiple dwelling (45 families), with a ground floor waterfront restaurant, and doctor's office, is contrary to Z.R. §22-12, which states that "residential uses" shall be limited to single, two family or semi-detached residences in an R3-1 zoning district.

**COMMUNITY BOARD #18BK**

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

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# CALENDAR

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**JUNE 8, 2004, 10:00 A.M.**

**COMMUNITY BOARD #6Q**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, June 8, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

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**APPEALS CALENDAR**

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**SPECIAL ORDER CALENDAR**

**125-92-BZ**

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

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**120-93-BZ**

APPLICANT - Sheldon Lobel, P.C., for Harry McNulty, owner.

SUBJECT - Application December 17, 2003 - reopening for an extension of term of variance which expired May 10, 2004 and for an amendment to allow the elimination of gasoline sales, permitting the sale of used automobiles and increase on site parking to 9 spaces

PREMISES AFFECTED - 222-19 Linden Boulevard, northwest corner of Linden Boulevard and 223rd Street, Block 11323, Lot 1, Borough of Queens.

**COMMUNITY BOARD #13Q**

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**95-97-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Lavin Brothers Austin, LLC, owner; TSI Forest Hills, Inc., lessee.

SUBJECT - Application January 20, 2004 - reopening for an amendment to the resolution to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment on the first floor.

PREMISES AFFECTED - 69-47 Austin Street, northwest corner of Austin Street and 70th Avenue, Block 3237, Lot 30, Borough of Queens.

65 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2012, Borough of Brooklyn. Applic.#301812493.

67 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2013, Borough of Brooklyn. Applic.#301812509.

73 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2014, Borough of Brooklyn. Applic.#301812518.

**73-04-A thru 124-04-A**

APPLICANT - Fischbein Badillo Wagner Harding for Strickland Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -

11 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2001, Borough of Brooklyn. Applic.#301815542.

23 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2002, Borough of Brooklyn. Applic.#301815490.

25 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2003, Borough of Brooklyn. Applic.#301812402.

31 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2004, Borough of Brooklyn. Applic.#301812411.

33 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2005, Borough of Brooklyn. Applic.#301812420.

39 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2006, Borough of Brooklyn. Applic.#301812439.

41 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2007, Borough of Brooklyn. Applic.#301812448.

47 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2008, Borough of Brooklyn. Applic.#301812457.

49 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2009, Borough of Brooklyn. Applic.#301812466.

57 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2010, Borough of Brooklyn. Applic.#301812475.

59 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2011, Borough of Brooklyn. Applic.#301812484.

5 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2015, Borough of Brooklyn. Applic.#301812527.

83 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2016, Borough of Brooklyn. Applic.#301815481.

5 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2017, Borough of Brooklyn. Applic.#301809657.

15 Clear Water Road, west side of Strickland Avenue, between



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# CALENDAR

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Tuesday afternoon, June 8, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## ZONING CALENDAR

### 9-04-BZ

APPLICANT - Marvin B. Mitzner, Esq., Fischbein Badillo Wagner Harding for Walworth Condominium, Inc., owner.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed multiple dwelling, which will contain forty-seven dwelling units, located in an M1-1 zoning district, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 114 Walworth Street, northwest corner of Myrtle Avenue, Block 1735, Lot 24, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

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### 14-04-BZ

APPLICANT - Alfonso Duarte, for Angelo Mordini, owner; Punto PREMISES AFFECTED - 1418 East 29th Street, between Avenue "N" and Kings Highway, Block 7682, Lot 57, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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*Pasquale Pacifico, Executive Director*

**JUNE 15, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, June 15, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

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## APPEALS CALENDAR

### 359-03-A

APPLICANT - The Agusta Group, for Joseph Atari, owner.

SUBJECT - Application November 20, 2003 - Proposed two story one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 220-43 135th Avenue, north side, 670' from 219th Street, Block 13101, Lot 15, Borough of Queens.

**COMMUNITY BOARD #13Q**

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### 379-03-A

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

SUBJECT - Application December 4, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 127 Arcadia Walk, east side, 501.12' south of Rockaway Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens

Zero, lessee.

SUBJECT - Application January 13, 2004 - under Z.R. §73-244 to permit the proposed conversion of an existing restaurant (Use Group 6), to an eating and drinking establishment with entertainment(Use Group 12A), located in a C2-3 within an R6 zoning district, is contrary to Z.R. §32-31.

PREMISES AFFECTED - 76-07 Roosevelt Avenue, northeast corner of 76th Street, Block 1287, Lot 43, Borough of Queens.

**COMMUNITY BOARD #3Q**

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### 39-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mordechai Bistrizky, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space and rear yard, is contrary to Z.R. §23-141, §23-461 and §23-47.

**COMMUNITY BOARD #14Q**

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### 65-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; Gregory & Tara Fillinger, lessees.

SUBJECT - Application March 2, 2004 - 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. PREMISES AFFECTED - 8 Beach 221st Street, south side, 127.34' east of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

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### 66-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; John & Patricia Brennan, lessee.

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a mapped street, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' policy.

PREMISES AFFECTED - 976 Bay side, southeast corner of Bayside Connection, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

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### 129-04-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Co-op, Inc, owner; Robert Bainbridge, lessee.

SUBJECT - Application March 11, 2004 - Proposed alteration of an existing one family dwelling, and the addition of a second floor, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 30 Marion Walk, west side, 44.56'

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# CALENDAR

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north of West End Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**JUNE 16, 2004, 2:00 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, June 16, 2004, at 2:00 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**SPECIAL HEARING**

**140-04-A**

APPLICANT - Stuart A. Klein, Esq., for S.H.A.W.C. Housing  
**REGULAR MEETING**  
**TUESDAY MORNING, MAY 11, 2004**  
**10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, March 9, 2004, were approved as printed in the Bulletin of March 18, 2004, Volume 89, No. 12.

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**SPECIAL ORDER CALENDAR**

**844-57-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Ozone Auto Service, Inc., owner.

SUBJECT - Application January 13, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 9, 2003.

PREMISES AFFECTED - 87-19 Rockaway Boulevard, a/k/a 97-18/58 88<sup>th</sup> Street, northwest corner of Rockaway Boulevard and 88<sup>th</sup> Street, Block 9060, Lot 25, Borough of Queens.

**COMMUNITY BOARD #9Q**

APPEARANCES - None.

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

**THE VOTE TO GRANT-**

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

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on April 20, 2004, after due notice by publication in *The City Record*, and then to May 11, 2004 for decision; and

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

Development Fund Corporation, owner.

SUBJECT - Application March 25, 2004 - Appeal of Department of Buildings refusal to revoke approval and underlying permit for the subject premises which is occupied contrary to the existing Certificate of Occupancy and the Zoning Resolution.

BUSINESS ADDRESS of PREMISES OWNER- S.H.A.W.C HOUSING DEVELOPMENT FUND CORP. -39 BOWERY STREET, Borough of Manhattan.

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*Pasquale Pacifico, Executive Director*

October 9, 2003; and

WHEREAS, on April 15, 1958, the Board granted a variance to permit, in a business use district, the erection and maintenance of a gasoline service station with accessory uses, the term of which was subsequently extended on October 9, 1973, March 20, 1984 and, most recently, February 7, 1995; and

WHEREAS, the resolution was also amended on March 20, 1984 to permit the use of an oxy-acetylene torch on the premises, for incidental work only, on auto exhaust systems; said torch when not used is to be stored in a closed tank room with the shutter closed; and

WHEREAS, the applicant represents that the subject site has been maintained in accordance with all Board conditions, and that there have been no new non-compliances since the last Board action.

*Resolved*, that the Board of Standards and Appeals, *reopens and extends* the term of the variance, said resolution having been adopted April 15, 1958, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten (10) years from the October 9, 2003 to expire on October 9, 2013, *on condition* that the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received January 9, 2004"- (1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

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

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or

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# MINUTES

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configuration(s) not related to the relief granted.”  
(DOB Application # 401762008)

Adopted by the Board of Standards and Appeals, May 11, 2004.

**1043-80-BZ**

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

SUBJECT - Application December 17, 2001 - request for a **ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, and term of variance extended.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on June 18, 2002, after due notice by publication in The City Record, with continued hearings on August 6, 2002, October 8, 2002, November 26, 2002, December 10, 2002, January 7, 2003, January 14, 2003, January 28 2003, March 18, 2003, May 20, 2003, July 22, 2003, September 9, 2003, October 21, 2003, January 13, 2004, February 10, 2004, March 23, 2004 and then to April 20, 2004 for decision; the decision was then deferred to May 11, 2004 and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the special permit which expired on May 3, 2000; and

WHEREAS, on April 14, 1981, the Board permitted a change in occupancy from storage of motor vehicles and auto repairs (including body and fender repairs) to warehouse facility under the subject calendar number; the original variance was granted under Cal. No. 396-38-BZ; and

WHEREAS, the premises is now occupied by a paint storage and mixing facility, which is a high hazard occupancy; and

WHEREAS, the applicant has agreed that the facility will comply with all applicable high hazard occupancy requirements as determined by the Department of Buildings; and

WHEREAS, the applicant has agreed that approval of compliance with such requirements will be obtained from DOB within 90 days from the date of this grant, and that proof of such approval will be forwarded to the Board; and

WHEREAS, the applicant has further agreed to obtain a certificate of occupancy within one year from the date of this grant.

Resolved, that the Board of Standards and Appeals, pursuant to Zoning Resolution §§72-01 and 72-22, waives the Rules of Practice and Procedure, reopens and amends the resolution, said resolution having been adopted on April 14, 1981 as amended through January 25, 1994, so that as

waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 3, 2000.

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

**COMMUNITY BOARD #18BK**

APPEARANCES -

For Applicant: Adam Rothkrug.

amended this portion of the resolution shall read: ‘to permit the extension of the term of the variance for an additional (10) years from May 3, 2000 to expire on May 3, 2010, on condition that all work shall substantially conform to drawings as filed with this application marked ‘Received April 13, 2004’- (2) sheets and ‘April 28, 2004’-(1) sheet; 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 all applicable high hazard occupancy regulations shall be complied with;

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

THAT all exiting requirements will be as approved by the Department of Buildings;

THAT compliance with all applicable high hazard occupancy regulations will be reviewed and approved by the Department of Buildings;

THAT the applicant will obtain approval of compliance with all applicable high hazard occupancy regulations from the Department of Buildings within 90 days from the date of this grant;

THAT failure to provide the Board with proof of DOB approval of compliance with the high hazard occupancy requirements within the allotted time frame as set forth above may result in the revocation of this grant;

THAT a new certificate of occupancy be obtained within one year from 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; 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 #301224379)

Adopted by the Board of Standards and Appeals, May 11, 2004.

**245-90-BZ**

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

# MINUTES

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

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

## COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on August 12, 2003, after due notice by publication in *The City Record*, with continued hearings on September 30, 2003, November 5, 2003, December 9, 2003, January 27, 2004, March 2, 2004, April 13, 2004, and then laid over to May 11, 2004 for decision; and

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the variance which expired on May 29, 2001; and

WHEREAS, on May 29, 1991, the Board granted a variance to permit, in a C2-3 (R6) district, the legalization and enlargement of an auto repair shop, Use Group 16, for a term of ten (10) years; and

WHEREAS, the applicant represents that the untimely filing of this application was due to unforeseen health and financial problems experienced by the owners of the premises; and

WHEREAS, the applicant represents that since the time of the original grant, the subject site has been maintained in accordance with all Board conditions, but there have been certain interior configuration and exterior cosmetic changes such as the removal of interior partitions, the closing of two exterior windows, the addition of a door on the first floor and the division of the steel roll up door.

*Resolved*, that the Board of Standards and Appeals, *reopens and extends the* term of the variance, said resolution having been adopted May 29, 1991, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten (10) years from the May 29, 2001 to expire on May 29, 2011, *on condition* that the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received June 12, 2003" -(4) sheets and "April 28, 2004"-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

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

THAT the hours of operation shall be limited to Monday through Friday 8:00 AM to 6:00 PM and Sunday, 8:00 AM to 3:00 PM;

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 Department of Buildings will review and approve egress from the first floor of the premises;

THAT this approval is limited to the relief granted by the

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

THE VOTE TO GRANT-

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

Negative:.....0

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

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

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

(DOB Appl. # 301554324)

Adopted by the Board of Standards and Appeals, May 11, 2004.

## 16-99-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Milton Elbogen.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 1116 East 26<sup>th</sup> Street, between Avenue K and Avenue L, Block 7625, Lot 52, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik

THE VOTE TO WITHDRAW -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, May 11, 2004.

## 200-00-BZ

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

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

PREMISES AFFECTED - 107-24 37<sup>th</sup> Avenue, a/k/a 37-16 108<sup>th</sup> Street, southwest corner of 108<sup>th</sup> Street and 37<sup>th</sup> Avenue, Block 1773, Lot 10, Borough of Queens.

## COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Philip Agusta.

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

THE VOTE TO GRANT -

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

# MINUTES

Negative:.....0  
THE RESOLUTION -

WHEREAS, a public hearing was held on this application on December 23, 2003, after due notice by publication in The City Record, with continued hearings on  
WHEREAS, on July 17, 2001, the BSA granted a variance under Z.R. §72-21 to permit in an R6 zoning district, the legalization of an existing physical culture establishment on the first floor and a portion of the second floor, in an existing two-story manufacturing and office building; and

WHEREAS, on November 25, 1997, the resolution was amended to permit modernization of the site; and

WHEREAS, the subject application seeks to legalize the relocation of the PCE from the first floor and a portion of the second floor to the entire second floor; and

WHEREAS, Community Board #3, Queens recommends conditional approval of this application; and

WHEREAS, by letter dated April 6, 2004, the applicant has agreed to comply with all of the Community Board's recommendations and has subsequently revised their plans to reflect such conditions.

*Resolved*, that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the legalization of the relocation of the PCE from the first floor and a portion of the second floor to the entire second floor; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received April 6, 2004' - (5) sheets; and on further condition;

THAT the hours of operation shall be limited to Monday through Friday 6:00 AM to 10:00 PM and Saturday and Sunday, 8:00 AM to 10:00 PM;

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

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

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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 #401008636)

Adopted by the Board of Standards and Appeals, May 11, 2004.

32 Webster Avenue, northwest corner of Stanley Avenue,  
Block 111, Lot 16, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam Rothkrug.

February 10, 2004, March 23, 2004, April 20, 2004 and then laid over to May 11, 2004 for decision; and

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

## 147-02-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Joseph Pizzonia

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 201-06 Hillside Avenue, corner of 201<sup>st</sup> Street and Hillside Avenue, Block 10495, Lot 52, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Sandy Anagnostou.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, May 11, 2004.

## 358-03-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Rita Citronenbaum

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 1651 52<sup>nd</sup> Street, northside 334'-4 west of 17<sup>th</sup> Avenue, between 16<sup>th</sup> and 17<sup>th</sup> Avenues, Block 5466, Lot 69, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

APPEARANCES - None.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, May 11, 2004.

## 1-04-BZY thru 2-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLC, for Woodrow Estates North, LLC, owners.

SUBJECT - Application January 2, 2004 - Proposed extension of time to complete construction for a major development for a period of six months pursuant to Z.R. §11-331.

PREMISES AFFECTED -

28 Webster Avenue, west side, 34.4' north of Stanley Avenue, Block 111, Lot 15, Borough of Staten Island.

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

THE VOTE TO GRANT -

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

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# MINUTES

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Commissioner Miele.....5  
Negative:.....0  
THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-331, to renew a building permit and extend the time for the completion of the foundation of a major development under construction; and WHEREAS, a public hearing was held on this application on April 28, 2004 after due notice by publication in *The City Record*, and then to decision on May 11, 2004; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Commissioner Joel Miele and Commissioner James Chin; and

WHEREAS, Z.R. §11-331 authorizes the Board to grant a six month extension of time to complete foundations upon a finding that “on the effective date the building permit lapsed, excavation had been completed and substantial progress made on foundations”; and

WHEREAS, the subject premises is proposed to be developed as a single zoning lot with 2 two-story and basement, three-family dwellings, each located on a separate tax lot; and

WHEREAS, therefore, the proposed development is defined pursuant to Z.R. §11-31 as a major development, in that it consists of construction of two or more buildings on a single zoning lot which will be non-complying under the provisions of any applicable amendment to the zoning resolution; and

WHEREAS, the record shows that on October 21, 2003 a site preparation permit to allow for the clearing of the site for construction of a new building was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that on November 14, 2003 a full construction permit (DOB Permit No. 500650137) for the new buildings was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that the building permit was issued to Woodrow Estates North, LLC, which has a possessory interest in the zoning lot; and

WHEREAS, the applicant represents that construction *Therefore, it is resolved* that this application is granted to renew New Building permit No. 500650137-01-NB pursuant to Z.R. §11-331, and to extend the time to complete the required foundations for one term of six months from the date of this resolution, to expire on November 11, 2004; *on condition* 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 11, 2004.

commenced immediately after issuance of the full permits; excavation of, and pouring of the concrete for, the footings was complete on December 2nd, and the forms for the cellar walls were completed, and a portion of the concrete cellar walls were poured, as of the morning of December 3<sup>rd</sup>; and

WHEREAS, the applicant states that, for 28 Webster Street, \$10,000 of the budgeted \$13,000 cost of the foundations was expended prior to the effective date of the zoning change; and

WHEREAS, the applicant represents that the City Council rezoned the subject premises on December 3, 2003, from R4 to R3A(HS), and that the vote making such rezoning effective occurred in the afternoon, well after the work performed at the site in the morning; and

WHEREAS, the rezoning of the subject zoning district effectively caused the applicant’s building permit to lapse; all subsequent construction must comply with the new underlying zoning regulations; and

WHEREAS, on December 5, 2003, the Department of Buildings issued a stop-work order to the subject premises, halting construction thereon; and

WHEREAS, in support of the contention that excavation was complete and substantial progress had been made on foundations, the applicant has submitted various pieces of evidence, including: bills and invoices showing the dollar amount of expenditures on the excavation and foundations, photos of the completed work, and a timeline of completed work from the contractors; and

WHEREAS, the Board finds the submitted evidence sufficient and credible; and

WHEREAS, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, the Board finds that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, consequently, the Board finds that the applicant has adequately satisfied all the requirements of Z.R. §11-331.

## 671-56-BZ

APPLICANT - Walter T. Gorman, P.E., for Benjamin Siegel Properties, LLC, owner; Euclid Enterprises, Inc., lessee.

SUBJECT - Application December 5, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired September 14, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 1249-1265 Sutter Avenue, northside blockfront from Euclid Avenue to Doscher Street, Block 4249, Lots 55 and 59, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

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# MINUTES

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APPEARANCES -

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for decision, hearing closed.

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**707-56-BZ, Vol. II**

APPLICANT - Walter T. Gorman, P.E., for Jewell Mallimson/Leonard Mallimson, owners; Amoco Oil Company, lessee.

SUBJECT - Application January 13, 2004 - reopening for an extension of term of variance which expired April 21, 2004.

PREMISES AFFECTED - 1500/10 Williamsbridge Road, northeast corner of Eastchester Road, Block 4082, Lot 5, Borough of The Bronx.

**COMMUNITY BOARD #11BX**

APPEARANCES -

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for decision, hearing closed.

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**724-56-BZ**

APPLICANT - Vassalotti Associates Architects, LLP, for Anthony Nicovic, owner.

SUBJECT - Application December 18, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired November 19, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 42-42 Francis Lewis Boulevard, south of 42<sup>nd</sup> Road, Block 5373, Lot 26, Borough of Queens.

**1038-80-BZ**

APPLICANT - Davidoff & Malito, LLP, for Feinrose Downing, LLC, owner; Expressway Arcade Corp., lessee.

SUBJECT - Application January 29, 2004 - reopening for an extension of term of variance which expired January 6, 2004.

PREMISES AFFECTED - 31-07/09/11 Downing Street, Block 4327-4367, Lot 1, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES -

For Applicant: Juan Reyes.

THE VOTE TO CLOSE HEARING -

**COMMUNITY BOARD #11Q**

APPEARANCES -

For Applicant: Hiram A. Rothkrug.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for continued hearing.

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**519-57-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for BP Amoco Corporation, owner.

SUBJECT - Application November 24, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired June 19, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 2071 Victory Boulevard, northwest corner of Bradley Avenue, Block 462, Lot 35, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES - None.

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

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**40-80-BZ**

APPLICANT - Sheldon Lobel, P.C., for 35 West 23rd Street Corp., owner; Patrick Montgomery, lessee.

SUBJECT - Application February 9, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 35-37 West 23<sup>rd</sup> Street, between Fifth Avenue and Avenue of the Americas, Block 825, Lot 7501, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES -

For Applicant: Irving Minkin.

For Administration: Anthony Scaduto, Fire Department.

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

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for decision, hearing closed.

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**62-83-BZ, Vol. II**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Shaya B. Pacific, LLC.

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# MINUTES

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

**COMMUNITY BOARD #8BK**

APPEARANCES -

For Applicant: Emily Simons.

For Opposition: Paul Sheridan.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for continued hearing.

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**982-83-BZ**

APPLICANT - H. Irving Sigman, for Barone Properties Inc., owner.  
SUBJECT - Application December 5, 2003 - reopening for an extension of time to complete construction and obtain a certificate of occupancy and for an amendment to the resolution.

PREMISES AFFECTED - 191-20 Northern Boulevard, southwest corner of 192<sup>nd</sup> Street, Block 5513, Lot 27, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for decision, hearing closed.

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**4-00-BZ**

APPLICANT - Noel Im, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 243 West 30<sup>th</sup> Street, north side of West

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 10 A.M., for continued hearing.

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**290-02-BZ thru 314-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Edgewater Development, Inc.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED -

114-01 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 125, Borough of Queens.

114-03 Taipei Court, west side, 576' west of 115<sup>th</sup>

30<sup>th</sup> Street, 325' east of 8<sup>th</sup> Avenue, Block 780, Lot 15, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES -

For Applicant: Mitchell Ross.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for continued hearing.

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**295-01-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for Yeled V'Yalda Early Childhood Center, owner.

SUBJECT - Application January 22, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1257-1263 38<sup>th</sup> Street, between 12<sup>th</sup> Avenue and 13<sup>th</sup> Avenue, Block 5295, Lots 47, 48, 49, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -

For Applicant: Peter Geis.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for decision, hearing closed.

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**103-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Bnei Aharon, Inc., owner.

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

PREMISES AFFECTED - 1516 East 24<sup>th</sup> Street, East 24<sup>th</sup> Street, 105' south of Avenue O and Kings Highway, Block 6770, Lot 12, Borough of Brooklyn.

Street, Block 4019, Lot 126, Borough of Queens.

114-05 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 127, Borough of Queens.

114-07 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 128, Borough of Queens.

114-09 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 129, Borough of Queens.

114-11 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 130, Borough of Queens.

114-13 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 131, Borough of Queens.

114-15 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 132, Borough of Queens.

114-21 Taipei Court, north side, 501' west of 115<sup>th</sup> Street, Block 4019, Lot 133, Borough of Queens.

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114-23 Taipei Court, north side, 491' west of 115<sup>th</sup> Street, Block 4019, Lot 134, Borough of Queens.  
114-25 Taipei Court, north side, 471' west of 115<sup>th</sup> Street, Block 4019, Lot 135, Borough of Queens.  
114-27 Taipei Court, north side, 451' west of 115<sup>th</sup> Street, Block 4019, Lot 136, Borough of Queens.  
114-29 Taipei Court, north side, 421' west of 115<sup>th</sup> Street, Block 4019, Lot 137, Borough of Queens.  
114-31 Taipei Court, north side, 411' west of 115<sup>th</sup> Street, Block 4019, Lot 138, Borough of Queens.  
114-33 Taipei Court, northwest corner of 115<sup>th</sup> Street, Block 4019, Lot 139, Borough of Queens.  
114-35 Taipei Court, north side, 371' west of 115<sup>th</sup> Street, Block 4019, Lot 141, Borough of Queens.  
114-20 Taipei Court, south side, 501' west of 115<sup>th</sup> Street, Block 4019, Lot 124, Borough of Queens.  
114-22 Taipei Court, south side, 491' west of 115<sup>th</sup> Street, Block 4019, Lot 123, Borough of Queens.  
114-24 Taipei Court, south side, 471' west of 115<sup>th</sup> Street, Block 4019, Lot 122, Borough of Queens.  
114-26 Taipei Court, south side, 451' west of 115<sup>th</sup> Street, Block 4019, Lot 121, Borough of Queens.  
114-28 Taipei Court, south side, 431' west of 115<sup>th</sup> Street, Block 4019, Lot 119, Borough of Queens.  
114-30 Taipei Court, south side, 411' west of 115<sup>th</sup> Street, Block 4019, Lot 117, Borough of Queens.  
114-32 Taipei Court, south side, 391' west of 115<sup>th</sup> Street, Block 4019, Lot 116, Borough of Queens.  
114-34 Taipei Court, south side, 371' west of 115<sup>th</sup> Street, Block 4019, Lot 115, Borough of Queens.  
114-36 Taipei Court, south side, 391' west of 115<sup>th</sup> Street, Block 2091, Lot 72, Borough of Staten Island.  
47 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 71, Borough of Staten Island.  
45 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 70, Borough of Staten Island.  
41 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 69, Borough of Staten Island.  
39 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 68, Borough of Staten Island.  
35 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 67, Borough of Staten Island.  
33 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 66, Borough of Staten Island.  
29 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 65, Borough of Staten Island.  
27 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 64, Borough of Staten Island.  
23 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 63, Borough of Staten Island.  
21 Hall Avenue, north side, west of Willowbrook Road,

Street, Block 4019, Lot 114, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

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

## 45-03-A thru 64-03-A

APPLICANT - Robert E. Englert, A.I.A., for Sleepy Hollow Development Corp., owner.

SUBJECT - Application February 10, 2003 - Proposed two family attached frame building, not fronting on a legally mapped street, and located within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED -

71 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 80, Borough of Staten Island.

69 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 78, Borough of Staten Island.

65 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 77, Borough of Staten Island.

63 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 76, Borough of Staten Island.

59 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 75, Borough of Staten Island.

57 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 74, Borough of Staten Island.

53 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 73, Borough of Staten Island.

Block 2091, Lot 62, Borough of Staten Island.

17 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 61, Borough of Staten Island.

15 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 60, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES - None.

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

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings Staten Island Borough Commissioner dated December 11, 2003 and December 16, 2003, acting on N.B. Application Nos. 500405019, and 500405028, 037, 046, 055, 064, 073, 082, 091, 108, 117, 126, 135, 144, 153, 162, 171, 180, 199, 206, reads in pertinent part:

“1. The streets given access to [the] proposed buildings are not duly placed on the official

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map of the City of New York therefore:

- a. No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of the General City Law.
  - b. Proposed construction does not have at least 8% of the total perimeter of buildings fronting directly upon a legally mapped street or frontage space contrary to Section 27-291 New York City Building Code.
2. Proposed development includes site appurtenances located in the bed of streets duly placed on the official map of the City of New York therefore:
- a. No permit can be issued pursuant to Article 3, Section 35 General City Law.”; and

WHEREAS, the proposed development contemplates the construction of twenty (20) three story one-family semi-detached dwellings in the bed of a mapped street, Hall Avenue between Willowbrook Road and Hawthorne Avenue; and

WHEREAS, by letter dated February 9, 2004, the Fire Department has reviewed the proposed project and has no objections provided that a 25 foot wide paved road will be maintained from Hall Avenue to Hawthorne Avenue for use by the Fire Department for emergency access; it is further understood that all buildings are to front on Hall Avenue

*Resolved*, that the decision of the Staten Island Borough Commissioner, dated December 11, 2003 and December 16, 2003, acting on N.B. Application Nos. 500405019, 500405028, 037, 046, 055, 064, 073, 082, 091, 108, 117, 126, 135, 144, 153, 162, 171, 180, 199, and 206 is modified under the power vested in the Board by Section 35 and Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, *on condition* that construction shall substantially conform to the drawing filed with the application marked, “Received April 13, 2004”- (1) sheet; and that the proposal comply with all applicable R3-2 zoning requirements and all other applicable laws, rules, and regulations; and *on further condition*:

THAT a Homeowners Association be established to maintain the private roadway, the private storm/sanitary drains, street lighting, and to provide snow removal;

THAT pursuant to the instruction of the Fire Department, a 25-foot paved road will be maintained from Hall Avenue to Hawthorne Avenue for use by the Fire Department for emergency access.

THAT the above conditions be noted on the Certificate of Occupancy;

THAT all yard, parking, and street width conditions as shown on the approved plans be fully complied with;

THAT no certificate of occupancy be issued for any of the subject buildings prior to acceptance by DEP, and recording thereof, of the proposed substitute drainage plan;

which has a 38 foot curb to curb width for its entire length until it intersects with Willowbrook Road; and

WHEREAS, by letter dated November 17, 2003, the Department of Transportation has reviewed the above project and has recommended that a permanent Homeowner’s Association be established to maintain the private roadway, and that such a condition should be made a restriction on the property deeds; and

WHEREAS, by letter dated April 14, 2003, the Department of Environmental Protection has reviewed the proposed project and requires the applicant to provide a 38 ft. wide clearance located in Hall Avenue for a “Sewer Corridor”, with no permanent structures being constructed within this “Sewer Corridor”, for the purpose of future drainage and installation, maintenance and/or reconstruction of the 10 inch dia. Sanitary and 48 inch dia. Storm Sewer in Hall Avenue between Hawthorne Avenue and Willowbrook Road under a substitute drainage plan; and

WHEREAS, in response to DEP’s request the applicant has filed a drainage plan that will supercede the adopted NYC Drainage Plan (RDP-DP-9-5); the substitution of this drainage plan will satisfy the requirements of DEP and allow the construction of the referenced property; and

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

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 11, 2004.

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## 393-03-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; Phillip & Stacey Benoit, owners.

SUBJECT - Application December 23, 2003 - Proposed enlargement and alteration to an existing one family dwelling, not fronting on a legally mapped street, which is contrary to Section 36, Article 3 of the General City Law. The building is not considered within 100' of a corner, therefore, 30'0" rear yard is required for second story enlargement.

PREMISES AFFECTED - 2 Roxbury Avenue, southeast corner of Marshall Avenue, Block 16340, Lot 50, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

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For Applicant: Joseph Sherry.

For Opposition: Zanine Gascard.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for continued hearing.

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## 395-03-A & 396-03-A

APPLICANT - Zaki Turkieh, for Aryeh Realty, LLC, owner.

SUBJECT - Application December 26, 2003 - proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 253-06 Rockaway Boulevard, located on Rockaway Boulevard and corner of East Dock Street, Block 13921, Lot 84, Borough of Queens.

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for decision, hearing closed.

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## 44-04-A

APPLICANT - NYC Department of Buildings.

OWNER OF RECORD: Martin Suss

LESSEE: William J. Newstad; Endeavor Abstract; Paladin Abstract.

SUBJECT - Application February 25, 2004 - Application to revoke or modify Certificate of Occupancy No. 500353422, issued on 2/28/00, on the grounds that the CO was issued with the mistaken understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district.

PREMISES AFFECTED - 1491 Richmond Road, bounded by Norden Street and Forest Road, Block 869, Lot 374, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES -

For Applicant: Stuart Klein.

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

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*Pasquale Pacifico, Executive Director.*

Adjourned: 1:30 P.M.

**REGULAR MEETING**  
**TUESDAY AFTERNOON, MAY 11, 2004**  
**2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner

## 27-04-A

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, LLP, for City of New York, owner; Unconvention Center, Inc., lessee.

SUBJECT - Application February 11, 2004 - Proposed rehabilitation and renovation of Pier 94, for use as an exhibition hall for mid-size trade shows, which seeks relief from the requirements of §27-369(f) of the NYC Building Code with respect to protection of an exterior corridor, and §27-771.01(b) of the NYC Building Code with respect to mechanical system providing less than (6) six air changes per hour.

PREMISES AFFECTED - 755 12<sup>th</sup> Avenue, west side, between West 53<sup>rd</sup> and 55<sup>th</sup> Streets, Block 1109, Lot 5, Borough of Manhattan.

**COMMUNITY BOARD #4M**

APPEARANCES -

For Applicant: Steven Sinacori, Paul Travis, Jeanette Rauch, Ann Marie Lewis, Joe Ragga and Alan Sheperd.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for continued hearing.

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Caliendo, Commissioner Miele and Commissioner Chin.

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## ZONING CALENDAR

### 266-03-BZ

**CEQR #04-BSA-031K**

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

SUBJECT - Application August 21, 2003 - under Z.R. §73-50 to permit in an M1-1 zoning district, the proposed enlargement of an existing warehouse that will encroach into the required rear yard between district boundaries, contrary to §43-302.

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

**COMMUNITY BOARD #11BK**

APPEARANCES -

For Applicant: Janice Cahalane.

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

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

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## THE VOTE TO GRANT -

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

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 28, 2003, acting on Application No. 301265244, reads:

“PROPOSED ENLARGEMENT IN REQUIRED YARD IS CONTRARY TO SECTION 43-302 ZR AND MUST BE REFERRED TO THE BOARD OF STANDARDS AND APPEALS.”; and

WHEREAS, a public hearing was held on this application on December 9, 2003 after due notice by publication in *The City Record*, with continued hearings on January 13, 2004, February 24, 2004, March 23, 2004 and April 20, 2004; the hearing was then deferred to May 11, 2004, where the matter was closed and the application was granted; and

WHEREAS, under Z.R. §73-50, the Board may grant a waiver of rear yard requirements set forth in Z.R. §43-30 provided that such waiver will not have an adverse affect on the surrounding area; and

WHEREAS, the applicant represents that no active manufacturing use is proposed in the rear addition, nor will there be any openings within the masonry construction that would permit noise to be generated outside the building; and

WHEREAS, the applicant further states that the proposed warehouse use does not create any fumes, odors, particulate matter or other activity or substance that would impact on the adjacent residential zoning district; and

WHEREAS, the Board notes that the contemplated encroachment would not block or affect any legal windows of adjacent residential uses; and

WHEREAS, therefore, the Board finds that the rear yard waiver will not have an adverse affect on the surrounding area, 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 applicant has agreed to incorporate certain safety conditions proposed by the Fire Department into the approved plans; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantage to be derived by the community; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-50 and 73-03.

*Resolved* that the Board of Standards and Appeals

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

WHEREAS, this is an application for a special permit pursuant to Z.R. §73-50, to allow in a M1-1 zoning district, the proposed enlargement of an existing warehouse that will encroach into the required rear yard, contrary to Z.R. §43-302; and

WHEREAS, the subject zoning lot has a width of 40 feet and a depth of 100 feet and is currently improved with a one story building used as a warehouse for a furniture store located on the same block, at 1762 McDonald Avenue; and

WHEREAS, the applicant seeks to enlarge the existing building by constructing a one story addition at the rear that will encroach into the yard required for a lot in a manufacturing district, where the rear lot line of said lot is adjacent to the rear lot line of a lot within an adjoining residential district; 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 to grant a special permit pursuant to Z.R. §§73-03 and 73-50, to allow in an M1-1 zoning district, the proposed enlargement of an existing warehouse that will encroach into the required rear yard between district boundaries, contrary to §43-302, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received January 7, 2004”-(2) sheets, “April 6, 2004”-(1) sheet and “April 28, 2004”-(1) sheet; and *on further condition*;

THAT all fire safety measures as shown on the approved plans will be complied with;

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

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

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

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

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

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

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

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11, 2004.

## 270-03-BZ

### CEQR #04-BSA-035Q

APPLICANT - Joseph P. Morsellino, for Cord Meyer Development, LLC, owner.

SUBJECT - Application August 26, 2003 - under Z.R. §72-21 to permit in a lot partially within a C4-2 zoning district and partially within an R7-1 zoning district, the proposed construction of a 21-story mixed use building, which exceeds the permitted residential floor area ratio, and provides less than the required open space, contrary to Z.R. §§ 21-142, 35-23, 35-32 and 35-33.

PREMISES AFFECTED - 108-36/50 Queens Boulevard, southeast

- “(1) Proposed new building in C4-2/R7-1 zoning district with less than the required open space is contrary to sections 21-142 Z.R., 35-23 Z.R. and 35-33 Z.R. and must be referred to the Board of Standards and Appeals for its determination.
- 2) Proposed new building in C4-2/R7-1 zoning district, exceeds the permitted F.A.R. [and] is contrary to sections 23-142 Z.R. and 35-32 Z.R. and must be referred to the Board of Standards and Appeals for its determination.”; and

WHEREAS, a public hearing was held on this application on January 6, 2004 after due notice by publication in *The City Record*, with continued hearings on February 10, 2004, March 9, 2004, April 13, 2004, and then to May 11, 2004 for decision; and

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

WHEREAS, this is an application for a variance pursuant to Z.R. §72-21, to permit in a lot partially within a C4-2 zoning district and partially within an R7-1 zoning district, the proposed construction of a 21-story mixed use building, which exceeds the permitted residential floor area ratio (“FAR”), and provides less than the required open space, contrary to Z.R. §§ 21-142, 35-23, 35-32 and 35-33; and

WHEREAS, Community Board 6, Queens, recommends conditional approval of this application; and

WHEREAS, the Queens Borough President and Council Member Melinda Katz also support this application; and

WHEREAS, the subject zoning lot is located on the southeast corner of Queens Boulevard and 71<sup>st</sup> Road, partially within a C4-2 zoning district and partially within an

corner of 71<sup>st</sup> Road, Block 3257, Lot 1 (formerly 1 and 42), Borough of Queens.

## COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

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

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 8, 2003, acting on DOB Application No. 401696562, reads:

R7-1 zoning district, has a total lot area of 27,425 sq. ft., and is occupied by a two-story, 35 ft. high legal commercial building; and

WHEREAS, the applicant seeks to construct a 215 ft. high, 21 story mixed use building with 161,008 total sq. ft. of floor area (the underlying zoning district allows a square footage of 131,640); and

WHEREAS, the proposed building would have a residential FAR of 4.54 (the underlying zoning district allows 2.43), a commercial FAR of 1.29 (the underlying zoning district allows 3.4), and a total FAR of 5.87 (the underlying zoning district allows 4.8 for community facilities); and

WHEREAS, the site is presently developed with a two-story commercial building, most of which will be retained; the new tower will be erected on the open area of the zoning lot; and

WHEREAS, the new building will provide 110 parking spaces on the cellar and sub-cellar levels, accessible via a curb cut on 71<sup>st</sup> Road; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: (1) the subject site is an irregularly shaped lot divided by a district boundary; and (2) the condition of soil on the site is poor, in that it is sandy and thus requires an extensive and costly piles system to be constructed; and

WHEREAS, the applicant has provided the Board with various reports and submissions, including an engineering report, which purport to establish that the soil conditions present at the site are poor, and necessitate the construction of an expensive foundation utilizing a combination of deep piles and stabilizing piles; and

WHEREAS, the applicant has also submitted a report analyzing comparable neighboring properties, which purports to show that the soil conditions present at the site are not conditions generally applicable to the neighborhood, and do not affect the neighboring properties; and

WHEREAS, the Board has reviewed the reports and

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submissions, and agrees that the site is uniquely afflicted with poor soil conditions giving rise to the need for the above-mentioned foundation system; and

WHEREAS, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant has submitted a feasibility study that demonstrates that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, the applicant has submitted supplemental materials breaking down the premium costs associated with

WHEREAS, the applicant claims that a mixed-use building which includes a large retail component will have less impact on the neighborhood than a conforming commercial building; and

WHEREAS, the applicant further states that the proposed height of the building is in keeping with other high-rise residential buildings along Queens Boulevard; and

WHEREAS, as noted in a supplemental letter from the applicant's architectural consultant, the proposed building will have a roof-top deck of approximately 1,649 sq. ft., an interior recreational facility of approximately 1,656 sq. ft., and a large common terrace area over the base of the building of approximately 6,026 sq. ft.; and

WHEREAS, in addition, the applicant states that several apartments will have private terraces, totaling approximately 2,362 sq. ft.; and

WHEREAS, the applicant notes that there are major parks in the vicinity of the site; and

WHEREAS, the applicant claims that these measures and conditions mitigate the effect of the reduced open space on the lot; and

WHEREAS, the Board finds that the measures in large part compensate for the reduced open space on the lot; and

WHEREAS, the Board notes that Queens Boulevard is among the widest avenues in the City, and is characterized by numerous high-rise buildings comparable in height to the proposed building, ranging in height from fourteen to twenty-eight stories; and

WHEREAS, the Board has conducted its own site visit and has reviewed the submitted land use map, and has determined that the proposed residential use is compatible with the surrounding neighborhood; and

WHEREAS, the Board notes that the proposed building does not require height or setback waivers, and that the applicant's analysis shows that an as-of-right building would be of approximately the same height; and

WHEREAS, based on the above, the Board finds that the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

the construction of the foundation system and other necessary site preparations; and

WHEREAS, an additional addendum to the feasibility study, dated February 12, 2004, shows that the return on a building that conforms to underlying bulk regulations but increases the residential FAR is not reasonable; and

WHEREAS, based upon its review of the record, the Board finds that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant states that adjacent to the site and throughout the neighborhood there are co-op, condominium and rental apartment houses; and

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

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

WHEREAS, 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 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 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a variance pursuant to Z.R. §72-21, to permit in a lot partially within a C4-2 zoning district and partially within an R7-1 zoning district, the proposed construction of a 21-story mixed use building, which exceeds the permitted residential floor area ratio, and provides less than the required open space, contrary to Z.R. §§ 21-142, 35-23, 35-32 and 35-33, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received February 2, 2004"- (3) sheets and "May 6, 2004"- (17) sheets; and *on further condition*;

THAT the building will contain a roof-top deck of approximately 1,649 sq. ft., an interior recreational facility of approximately 1,656 sq. ft., and a large common terrace area over the base of the building of approximately 6,026 sq. ft., as shown on approved plans;

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

THAT the layout of the parking in the cellar and sub-cellar is to be reviewed and approved by the Department of Buildings;

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

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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 SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit in an M1-1 zoning district, the proposed construction of a five-family, three-story multiple dwelling, contrary to Z.R. §42-10.

PREMISES AFFECTED - 976 Metropolitan Avenue, between Catherine Street and Morgan Avenue, Block 2918, Lot 3, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

### APPEARANCES -

For Applicant: Fredrick Becker.

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

### THE VOTE TO GRANT -

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

Negative:.....0

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 21, 2003, acting on DOB Application No. 301628969, reads:

“Proposed residential building, use group 2A, to be constructed is contrary to Zoning Resolution ZR 42-10, “Uses permitted as of right” as use group 2A is not included in the uses permitted under ZR 42-11 or 42-12 in an M1-1 zoning district.”; and

WHEREAS, a public hearing was held on this application on January 27, 2004 after due notice by publication in *The City Record*, with a continued hearing on March 23, 2004 and then laid over to April 20, 2004 for decision; the decision was then deferred to May 11, 2004; and

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

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application for a variance pursuant to Z.R. §72-21, to permit in an M1-1 zoning district, the proposed construction of a five-family, three-story multiple dwelling, contrary to Z.R. §42-10; and

WHEREAS, the subject zoning lot is located on Metropolitan Avenue between Catherine Street and Morgan

configuration(s) not related to the relief granted;

Adopted by the Board of Standards and Appeals, May 11, 2004.

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## 271-03-BZ

### CEQR #04-BSA-036K

APPLICANT - Law Office of Fredrick A. Becker, for Frank Scelta, owner.

Avenue, 50 ft. east of Catherine Street, has a total lot area of 2,500 sq. ft., and is currently vacant, although it was formerly occupied by a residential structure; and

WHEREAS, the applicant seeks to construct a 32 ft. high, 3 story with cellar multiple dwelling with 4,653 sq. ft. of floor area; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: (1) the substandard size of the lot results in a conforming floor plate that is impractical for office or industrial use, especially when considered against other, wider commercial/industrial properties in the surrounding neighborhood; and (2) the site has historically been developed with a residential structure; and

WHEREAS, the applicant has provided a Land Use Survey/Property Chart of all the zoning lots in the M1-1 zoning district, showing that almost all commercial/industrial sites within this district are larger than the subject site; and

WHEREAS, the Land Use Survey/Property Chart also shows that the combination of the vacant status and smallness of the lot is not a common condition within the district for non-residentially occupied lots; and

WHEREAS, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant has submitted a feasibility study that demonstrates that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, the applicant has submitted an explanation to the Board as to why certain scenarios were not studied in the feasibility analysis, and the Board finds this explanation sufficient; and

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

WHEREAS, the applicant states that the immediate neighborhood contains a significant amount of residential uses despite the manufacturing zoning classification, with

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the several buildings to the east of the site, as well as across the street, being occupied by residential structures; and

WHEREAS, the applicant further states that the majority of commercially occupied sites on Metropolitan Avenue are either vacant or abandoned; and

WHEREAS, the Board has conducted its own site visit

WHEREAS, based on the above, the Board finds that the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

WHEREAS, this proposal is the minimum necessary to afford the owner 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

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 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a variance pursuant to Z.R. §72-21, to permit in an M1-1 zoning district, the proposed construction of a five-family, three-story multiple dwelling, contrary to Z.R. §42-10, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received April 5, 2004"- (3) sheets and "April 22, 2004"- (5) sheets; and *on further condition*;

THAT all applicable requirements regarding required court sizes, and light, air and ventilation to the residential units, shall be reviewed and approved by the Department of Buildings; no relief from such requirements is granted herein by the Board;

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

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

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

Adopted by the Board of Standards and Appeals, May

and has reviewed the submitted land use map, and has determined that the proposed residential use is compatible with the surrounding neighborhood; and

WHEREAS, the Board notes that the width of the lot is typical of residentially developed lots; and

11, 2004.

## 362-03-BZ

### CEQR #04-BSA-088M

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

SUBJECT - Application November 20, 2003 - under Z.R. §11-411 to permit the continued use of the premises for private parking, accessory to commercial use, and for storage accessory to commercial use, changed from previously approved storage of combustible chemical solvents, is contrary to a previously Cal. No. 1071-40-BZ Vol. II and Z.R. §22-00.

PREMISES AFFECTED - 428 West 45<sup>th</sup> Street, between Ninth and Tenth Avenues, Block 1054, Part of Lot 48, Borough of Manhattan.

### COMMUNITY BOARD #4

#### APPEARANCES -

For Applicant: Jordan Most.

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

#### THE VOTE TO GRANT -

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

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 20, 2003, acting on DOB Alt. 1 Application No. 103568827 reads:

"PROPOSED CONTINUED USE IN RESIDENCE DISTRICT FOR PRIVATE ACCESSORY TO COMMERCIAL USE, AND USE FOR STORAGE ACCESSORY TO COMMERCIAL USE, CHANGED FROM PREVIOUSLY APPROVED STORAGE OF INCOMBUSTIBLE CHEMICAL SOLVENTS, IS CONTRARY TO BSA CAL 1071-40-BZ VOL II, AND ALSO CONTRARY TO SECTION 22-00 OF THE ZONING RESOLUTION.;" and

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in The City Record, and laid over to May 11, 2004 for decision; and

WHEREAS, this is an application under Z.R. §11-411, to permit, on a site previously before the Board located

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# MINUTES

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within an R8 zoning district, the re-establishment of a variance, previously granted under Calendar Number 1071-40-BZ, which is contrary to Z.R. §22-00; and

WHEREAS, on April 15, 1941, the Board granted an application under Calendar Number 1071-40-BZ, to permit the parking of more than five motor vehicles which was subsequently amended to permit the storage of chemical solvents in a one-story structure on the rear of the lot; and

WHEREAS, since the original grant, the variance was extended a number of times, each for a term of five years, until January 28, 1986, when the Board extended the variance for a term of ten years from January 20, 1986, to expire on January 20, 1996; and

WHEREAS, the applicant represents that the grant lapsed in 1996 because ownership of the property was in transition, when one of the principals of the owning entity passed away; and

WHEREAS, however, the applicant asserts that the parking and storage has been continuous and uninterrupted since the time of the original grant, although no chemical solvents have been stored on the premises since the mid 1960's, when the abutting factory, which occupied the remainder of the zoning lot, was replaced with a movie supply company; and

WHEREAS, the applicant states that the owner of the premises does not store chemical solvents, but requests that the storage structure remain and be used for storage accessory to the abutting commercial use; and

WHEREAS, the applicant has consented to amending the Certificate of Occupancy to prohibit chemical storage on the premises and limit parking on the site to vehicles owned by employees or customers of the abutting commercial use; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §11-411 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. §11-411 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit, on a site previously before the Board located within an R8 zoning district, the re-establishment of a variance, previously granted under Calendar Number 1071-40-BZ, which is contrary to Z.R. §22-00 *on condition* that all work shall substantially conform to

WHEREAS, Community Board No. 4, Manhattan, recommends approval of this application; and

drawings as they apply to the objection above noted, filed with this application marked "Received April 26, 2004"-(1) sheet; and *on further condition*;

THAT the term of the variance shall be limited to ten (10) years from the date of this grant expiring on May 11, 2014;

THAT the Certificate of Occupancy shall be amended to read: "Storage, not to include any chemical solvents, and private parking of more than five (5) motor vehicles, pleasure type cars only, limited to cars owned by employees and customers of the owner-tenant or lessee-tenant of the property known as and located at 430-436 West 45<sup>th</sup> Street, which address comprises the balance of Lot 48 (f/k/a Lots 49 and 50).";

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

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

THAT a new Certificate of Occupancy shall be obtained within two (2) years of the date of this resolution;

THAT the storage shed shall be as approved by the Department of Buildings;

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 11, 2004.

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## **371-03-BZ & 372-03-BZ**

### **CEQR #04-BSA-097M & CEQR #04-BSA-098M**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 655 Properties, LLC, owner; Cornelia Fifth Avenue LLC, lessee.

SUBJECT - Application December 2, 2003 - under Z.R. §73-36 to permit the legalization of the eighth floor, and the roof, of an existing eight story building, for use as a physical culture establishment, located in a C5-3(MiD) zoning district, is contrary to Z.R. §32-10. PREMISES AFFECTED -

655 Fifth Avenue, southwest corner, block bounded by Fifth and Madison Avenues, and East 52<sup>nd</sup> and East 53<sup>rd</sup> Streets, Block 1288, Lot 1, Borough of Manhattan.

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663 Fifth Avenue, southwest corner, block bounded by Fifth and Madison Avenues, and East 52<sup>nd</sup> and East 53<sup>rd</sup> Streets, Block 1288, Lot 3, Borough of Manhattan.

## COMMUNITY BOARD #5M

### APPEARANCES -

For Applicant: Robert Flahive.

### ACTION OF THE BOARD - Application.

#### THE VOTE TO GRANT -

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

Negative:.....0

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated November 21, 2003, acting on Department of Buildings Alt. I Application No. 103531830, reads;

“Proposed Physical Culture Establishment at 8<sup>th</sup> and 9<sup>th</sup> floors is not permitted in C5-3 District as per ZR 32-10”; and

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in *The City Record*, and then laid over to May 11, 2004 for decision; and

WHEREAS, this is an application for under Z.R. §§73-36 and 81-13, to permit the use of the eighth floor of, and a proposed ninth floor to, an existing commercial building in a C5-3 (Special Midtown District), for a proposed physical culture establishment (“PCE”), which is contrary to Z.R. §32-10; and

WHEREAS, a corresponding application has been filed under BSA Calendar Number 372-03-BZ for the subject PCE to also operate on the eighth floor and a portion of the roof level of the adjacent building at 663 Fifth Avenue (the “663 Building”); and

WHEREAS, Community Board No. 5, Manhattan has recommended approval of this application; and

WHEREAS, the subject eight story building (the “655 Building”) is located at the northeast corner of Fifth Avenue and East 52<sup>nd</sup> Street, with a frontage of 50 feet along Fifth Avenue, 115 feet along East 52<sup>nd</sup> Street and a total lot area of 5,750 square feet; and

WHEREAS, the record indicates that the first and second floors of the subject building are currently used for retail use, while floors three through seven are occupied by office uses; and

*Resolved* that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental quality Review and makes the required findings under Z.R. §§73-36 and 81-13 to permit the use of the eighth floor and a

WHEREAS, the applicant represents that the PCE will occupy the eight floor and a new ninth floor addition in the subject building; and

WHEREAS, the wall separating the eight floors of 655 and 663 Buildings will be demolished, and the PCE will comprise a single, contiguous space; and

WHEREAS, the total proposed commercial floor area is below the maximum allowable floor area and the new ninth floor addition will comply with the special height and setback regulations of the Special Midtown District; and

WHEREAS, the applicant states that the proposed PCE will offer premium massage, facial and beauty treatments, with patrons entering the facility through the lobby of the 663 Building and employees entering through the East 52<sup>nd</sup> Street entrance to the 655 Building; and

WHEREAS, there will be no signage for the proposed PCE on the exterior of either building; and

WHEREAS, the record indicates that the proposed use will not contain any potential hazards that impact on the privacy, quiet, light, and air to residential uses; and

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

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

WHEREAS, the PCE will have a lounge area that will be located on the roof of the 663 Building, immediately adjacent to the ninth floor portion of the 655 building, that complies with the roof level requirements of 73-36(b); and

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-03 and 73-36; and

WHEREAS, the Board has also determined pursuant to Z.R. §81-13, that the proposed PCE will be consistent with the purposes and provisions of the Special Midtown District regulations; and

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

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

newly proposed ninth floor of an existing commercial building in a C5-3 (Special Midtown District), for a proposed physical culture establishment (“PCE”), which is contrary to Z.R. §32-10, *on condition* that all work shall substantially conform to drawings as they apply to the objections above-

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noted, filed with this application marked "Received December 2, 2003"- (4) sheets and "April 26, 2004"- (1) sheet; and *on further condition*;

THAT the term of this special permit shall be limited ten (10) years, to expire on May 11, 2014;

THAT a minimum 4 foot wide path of travel to all exits shall be maintained on the floors and kept free of any equipment or obstructions at all times;

THAT all massages will all be performed by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT fire protection measures, including measures to protect the openings between the two buildings, shall be provided and maintained in accordance with the BSA-approved plans;

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.

Adopted by the Board of Standards and Appeals, May 11, 2004.

## 384-03-BZ

### CEQR #04-BSA-103X

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Renewal Arts Realty Corp., owner; Albert Einstein College of Medicine of Yeshiva University, lessee.

SUBJECT - Application December 10, 2003 - under Z.R. §72-21 to permit the proposed operation of a Use Group 4A health facility on a portion of a zoning lot, located in an M1-2 zoning district, contrary to Z.R. §42-11.

PREMISES AFFECTED - 804 East 138<sup>th</sup> Street, south side, 155.52' east of Willow Avenue, Block 2589, Lots 15 and 16, Borough of The Bronx.

### COMMUNITY BOARD #1BX

APPEARANCES -

For Applicant: Robert Flahive.

### ACTION OF THE BOARD - Application.

WHEREAS, the Albert Einstein College of Medicine ("AECOM"), which is a not-for-profit entity and a part of Yeshiva University, seeks to relocate its three related substance abuse clinics (collectively, the "Clinic") to the subject site, leasing and occupying the first floor of the

### THE VOTE TO GRANT -

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

Negative:.....0

Recused: Commissioner

Caliendo.....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 2, 2003 acting on Application No. 200812834 reads, in part:

"In an M1-2 Zoning District: The proposed use

"Independent out-of-hospital health facility incorporated pursuant to article VII of the New York State Social Services Law (Use Group 4A) is contrary to: 1) Section 42-11 Use Group 4A is NOT PERMITTED as of right . . . . Therefore, this proposed use under zoning use group 4A requires a variance from the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on March 30, 2004 after due notice by publication in *The City Record*, with a continued hearing on April 27, 2004, and then laid over to May 11, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan; and

WHEREAS, Community Board 1, Bronx submitted a letter supporting the subject application (though no formal resolution was adopted); and

WHEREAS, the subject application also has the support of State Senator Espada, Bronx Borough President Carrión, Jr., the 40<sup>th</sup> Police Precinct Community Council, and the HUB Third Avenue Business Improvement District; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed operation of a Use Group 4A health facility on a portion of a zoning lot, located in an M1-2 zoning district, contrary to Z.R. §42-11; and

WHEREAS, the subject lot is located on the south side of East 138<sup>th</sup> Street, 115.52 feet east of the corner formed by East 138<sup>th</sup> Street and Willow Avenue, consists of two tax lots (Lots 15 and 16), and has a total lot area of 57,554.5 sq. ft.; Lot 16 is occupied by a 27 ft. high, 1 story building with a legal use as a contractor's establishment, Use Group 16A and 16E; and

WHEREAS, the existing one story building on Lot 16 will be enlarged as-of-right to a three story plus basement, 51 ft. high building, to be occupied as offices; and

expanded building on Lot 16; and

WHEREAS, the Clinic serves 1100 patients, ages 18 and above, providing them with comprehensive substance abuse treatment, as well as a combined and coordinated program of medical, psychiatric, family and social services;

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and

WHEREAS, the applicant represents that most of the patients live and/or work in the South Bronx; and

WHEREAS, the Clinic's core service is the provision of a methadone maintenance program; and

WHEREAS, the applicant states that the Clinic plays a significant role in AECOM's educational mission, providing basic training in substance abuse issues to AECOM students and other Yeshiva University students; residents also serve at the Clinic; and

WHEREAS, AECOM will not have an ownership interest in the building; ownership will be retained by the current owner; and

WHEREAS, the applicant states that the building in which the Clinic is currently located is inadequate, in that it lacks sufficient space for the amount of patients it serves and for many of the programs necessary for successful treatment of substance abuse disorders, and, as a consequence, the Clinic can not receive the full accreditation required under Federal law; and

WHEREAS, the applicant further states that the Clinic conducted a lengthy search for a suitable site in which to relocate and entered into a lease in the subject building for space that will address their needs; and

WHEREAS, the applicant represents that the first floor space of the expanded building will provide the Clinic with 31,000 sq. ft. of space, which will accommodate all of its important services and programs, individual offices for its practitioners, a main waiting area, rooms for supplemental treatment, a staffed children's room, and storage; and

WHEREAS, the applicant argues that the subject zoning lot possesses some unique features, namely an irregular shape and proximity to a large rail freight facility, but the applicant does not provide any statement or evidence suggesting that there are unique physical conditions inherent to the zoning lot that lead to practical difficulty or unnecessary hardship in strictly complying with the use provisions of the underlying zoning district; and

WHEREAS, rather, the applicant points to the hardship faced by the Clinic in remaining at its existing site; and

WHEREAS, the applicant argues that under existing case law, an educational institution need not address the uniqueness finding set forth at Z.R. §72-21(a); and

WHEREAS, under normal circumstances, the Board would not grant a variance based on hardship personal to a not-for-profit lessee of a building due to its programmatic

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

WHEREAS, the Board finds that the hardship alleged by applicant 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

needs, given both the general proposition that a variance runs with land and the text of the 'A' finding; and

WHEREAS, however, the Board agrees that as an educational institution, the Clinic enjoys some deference under the case law in the strict application of zoning regulations; and

WHEREAS, because of the apparent legal standard applicable to the Clinic, the Board is not rendering a determination as to Z.R. §72-21(a); and

WHEREAS, the Board notes that this approach is necessitated by the special consideration given to educational institutions (notwithstanding the general land use principle precluding a grant of a variance based upon the identity of a proposed user of land), as well as the specific position of the applicant as a lessee rather than as an owner or contract vendee; and

WHEREAS, in order to ensure that the property owner does not realize a windfall should the Clinic cease to occupy the first floor of the building, the applicant has agreed to certain conditions, limiting the scope of the variance to the first floor space and the term of the variance to the term of the lease, and providing for surrender of the variance should the Clinic vacate prior to the expiration of the lease, and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the proposed variance will be in furtherance of its programmatic needs; and

WHEREAS, the applicant represents that the neighborhood surrounding the subject site is predominantly industrial in nature and characterized by warehouses, garages, and automotive uses; and

WHEREAS, the neighborhood is bordered on the west by the Bruckner Expressway, and a large rail freight facility lies immediately to the east of the subject lot; and

WHEREAS, the site is well-served by public transportation; and

WHEREAS, the Clinic will employ staff to monitor patient activity in the neighborhood, and has committed to terminate disruptive patients from its services; uniformed security staff will also be present during facility operating hours; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that the proposed use is appropriate given the context of the neighborhood; 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 as modified under applicable case law; and

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

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the

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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 the required findings under Z.R. §72-21 and applicable case law and grants a variance, to permit the proposed operation of a Use Group 4A health facility on a portion of a zoning lot, located in an M1-2 zoning district, contrary to Z.R. §42-11; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "April 8, 2004"- (8) sheets; and *on further condition*: THAT this variance is limited to the first floor of the premises, as shown on

THAT the term of the variance is limited to 20 years from the date of this grant, to expire on May 11, 2024;

THAT the first floor of the premises shall not be occupied by any other entity than the Clinic without the express approval of the Board;

THAT if the Clinic desires to vacate the premises at any time prior to the expiration of the grant, AECOM will notify the Board in writing and surrender this variance before actually vacating;

THAT the Clinic will be open to patients Monday through Friday, from 6:30 am to 7:00 pm, and Saturdays, from 8:00 am to 4:00 pm;

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

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

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

THAT during the term of the variance, the Clinic's staff will monitor the surrounding area, in order to determine if any of the patients are loitering in the area or engaging in disruptive activities;

THAT at least four uniformed security guards will be stationed at the Clinic during hours of operation;

THAT all applicable fire safety measures as shown on the approved plans will be complied with;

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

THAT this approval is limited to the relief granted by the PREMISES AFFECTED - 214 25<sup>th</sup> Street, between Fourth and Fifth Avenues, Block 655, Lot 13, Borough of Brooklyn.

## **COMMUNITY BOARD #7BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

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## **102-03-BZ**

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

SUBJECT - Application April 3, 2003 - under Z.R. §72-21 to permit the proposed development of two residential buildings with

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

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

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

Adopted by the Board of Standards and Appeals, May

11, 2004

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## **327-02-BZ**

APPLICANT - Harold Weinberg, P.E., for Frank Galeano, owner.  
SUBJECT - Application November 4, 2002 - under Z.R. §72-21 to permit the proposed erection of a four story, four family residence, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 82 Union Street, south side, 266'-0" west of Columbia Street, east of Van Brunt Street, Block 341, Lot 18, Borough of Brooklyn.

## **COMMUNITY BOARD #6BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

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## **361-02-BZ**

APPLICANT - Marianne Russo, for 214 25<sup>th</sup> Street Corporation, owner.

SUBJECT - Application December 13, 2002 and updated January 5, 2004 - under Z.R. §72-21 to permit the proposed renovation and conversion of an existing factory building, to create 15 unit loft type apartments, with five parking spaces in the mews, a garden courtyard, and the addition of floor area to the center of the front structure, located in an M1-1D district, which does not meet the zoning requirements for rear lot line, parking, height and setback, is contrary to Z.R. §42-00, §43-61(d), §43-61(c) and §44-27.

underground accessory parking and an open recreation space between the two buildings, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 291 Kent Avenue, 35/37 South Second Street and 29/33 South Third Street, east side of Kent Avenue, between South Second and Third Streets, Block 2415, Lots 10, 14, 15, 41-43, 114 and 116, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Jordon Most.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

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## **194-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

### **COMMUNITY BOARD #9BK**

APPEARANCES -

For Applicant: Richard Lobel, Jack Segal and Rabbi David Mayhill.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

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## **199-03-BZ thru 205-03-BZ**

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

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

PREMISES AFFECTED -

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

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

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

77 Emerson Place, between Myrtle and Park

## **211-03-BZ**

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

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

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

### **COMMUNITY BOARD #1Q**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for deferred decision.

Avenues, Block 1895, proposed Lot 117, Borough of Brooklyn.

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

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

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

### **COMMUNITY BOARD #3BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

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## **208-03-BZ**

APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

SUBJECT - Application June 19, 2003 - under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M-I zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, and parking, is contrary to Z.R. §33-121, 33-292, §36-21, §43-26 and §44-20.

PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

### **COMMUNITY BOARD #11BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

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## **229-03-BZ**

APPLICANT - David L. Businelli, for PIC Legacy Realty, Inc., owner.

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

PREMISES AFFECTED - 303 Crystal Avenue, southeast corner of Watchogue Road, Block 472, Lot 149, Borough of Staten Island.

### **COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: David Businelli.

**ACTION OF THE BOARD** - Laid over to June 22,

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# MINUTES

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2004, at 1:30 P.M., for continued hearing.

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## **231-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Isaac Douek Jacqueline Douek Maurice Douek, owners.

SUBJECT - Application July 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a six story building, with a mezzanine and cellar, to contain eighteen residential units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 63 and 65 Columbia Street, southeast corner of Congress Street, Block 299, Lots 7 and 8, Borough of Brooklyn.

## **COMMUNITY BOARD #6BK**

APPEARANCES -

For Applicant: Janice Cahalane and Gary Silver.

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

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## **240-03-BZ**

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

SUBJECT - Application July 10, 2003- under Z.R. §72-21 to permit the proposed enlargement of an existing two story synagogue, Use Group 4, located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area ratio, building height, side yards, rear yard, also the proposed addition of lot 39 to the existing building, is contrary to Z.R. §24-10, §24-111, §24-521, §24-35 and §24-  
SUBJECT - Application August 21, 2003 - under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2/6 Berry Street, 194/96 North 14th Street, south side, between Wythe Avenue to the west and Berry Street to the east, Block 2279, Lot 13, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

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## **314-03-BZ**

APPLICANT - Deirdre A. Carson, Esq., for 17-18 Management Co. LLC, c/o White, Inc., owner; AMAC, lessee.

SUBJECT - Application October 16, 2003 - under Z.R. §§73-01, 73-03 and 73-19 to permit the legalization of an existing school, Use Group 3A, located in an 11 story loft building, in an M1-6M zoning district, is contrary to Z.R. §42-00 and §42-12.

36, and a previous variance granted under Cal. No. 815-85-BZ.

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

## **COMMUNITY BOARD #8Q**

APPEARANCES -

For Applicant: Jordan Most, Meir Mishtoff.

For Opposition: Leo Weinberger and Shirl Basehore.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

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## **261-03-BZ**

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

SUBJECT - Application August 18, 2003 - under Z.R. §72-21 to permit the legalization of an existing one story building, as an auto repair shop, Use Group 16, located in an R7-1 zoning district, which is contrary to Z.R. §23-00.

PREMISES AFFECTED - 1404/06 Stebbins Avenue, northeast corner of East 170th Street, Block 2965, Lot 36, Borough of The Bronx.

## **COMMUNITY BOARD #3BX**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

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## **267-03-BZ**

APPLICANT - Stuart A. Klein, Esq., for North 14th Street Realty Associates, LLC, owner.

PREMISES AFFECTED - 18 West 18th Street, a/k/a 25 West 17<sup>th</sup> Street, a through lot, 356' west of the intersection of Fifth Avenue and 17th and 18th Streets, Block 819, Lot 56, Borough of Manhattan.

## **COMMUNITY BOARD #5M**

APPEARANCES -

For Applicant: Deirdre Carson and Bonnie Moses.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

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## **343-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit the proposed construction of seven story, nineteen unit, residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

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# MINUTES

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**COMMUNITY BOARD #1BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

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**390-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Dobbins Street, LLC, owner.

SUBJECT - Application December 18, 2003 - under Z.R. §72-21 to permit 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.

PREMISES AFFECTED - 95 Dobbin Street, between Norman and Messerole Avenues, Block 2616, Lot 18, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Janice Cahalane, Kathryn Samalin and Mayer Friedman.

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

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*Pasquale Pacifico, Executive Director.*

Adjourned: 4:50 P.M.