
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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CONTENTS

DOCKET	828
CALENDAR of January 11, 2005	
Morning	829
Afternoon	830

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, November 23, 2004**

Morning Calendar831

Affecting Calendar Numbers:

780-56-BZ	137-21 Liberty Avenue, Queens
1046-63-BZ	540 Park Avenue, Manhattan
256-01-BZ	219-06 Hempstead Avenue, Queens
151-02-BZ	223 West 80 th Street, Manhattan
273-04-A	128/0 East 78 th Street and 121/23 East 77 th Street, Manhattan

Afternoon Calendar833

Affecting Calendar Numbers:

186-03-BZ	525 Union Avenue, Brooklyn
137-04-BZ	1755 East 28 th Street, Brooklyn
173-04-BZ	5/9 West 37 th Street, Manhattan
200-04-BZ	703 West 171 st Street, Manhattan
242-04-BZ	1440 East 26 th Street, Brooklyn
261-04-BZ	2824 Avenue "R", Brooklyn
327-02-BZ	82 Union Street, Brooklyn
214-03-BZ	388 Broadway, Manhattan
355-03-BZ	64-01/07 Grand Avenue, Queens
391-03-BZ	1288 East 19 th Street, Brooklyn
147-04-BZ	459 Carroll Street, Brooklyn
203-04-BZ	2801 Avenue "N", Brooklyn
204-04-BZ	1116 East 22 nd Street, Brooklyn
237-04-BZ	5722 Faraday Avenue, Bronx
268-04-BZ	1246 East 22 nd Street, Brooklyn
311-04-BZ	380 Lighthouse Avenue, Staten Island

CALENDAR

JANUARY 11, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, January 11, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

164-94-BZ

APPLICANT - Sullivan, Chester & Gardner, P.C., for Tuckahoe Realty, LLC, owner; Lucille Roberts Health Club, lessee.

SUBJECT - Application February 11, 2004 - Extension of term and Waiver of the Rules and Procedures for an expired variance for a physical culture establishment ("Lucille Roberts Fitness for Women"), granted pursuant to section 72-21 which expired on March 1, 2003.

PREMISES AFFECTED - 84 Hugh Grant Circle, South side of Hugh Grant Circle, 95.69 feet west of Cross Bronx Expressway, Block 3794 Lot 109, The Bronx.

COMMUNITY BOARD #9BX

322-98-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for HUSA Management Co., LLC, owner; TSI Harlem USA, Inc. dba New York Sports Club, lessee.

SUBJECT - Application March 15, 2004 - reopening for an amendment to the resolution to allow the enlargement of a previously granted special permit permitting the operation of a physical culture establishment located in portions of the first floor and of the fourth floor of the subject premises.

PREMISES AFFECTED - 300 West 125th Street, south side of West 125th Street, between St. Nicholas Avenue and Frederick Douglas Boulevard, Block 1951, Lots 22, 25, 27, 28, 29, 33, 39, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEALS CALENDAR

226-04-A

APPLICANT - Joseph Sherry, for Breezy Point Cooperative, Inc., owner; William Basher, lessee.

SUBJECT - Application June 15, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, located within the bed of a mapped street and has a private disposal system in the bed of the mapped street, is contrary to

342-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Patricia & John Martin, lessees.

Sections 35 and 36 of the General City Law and Department of Buildings' Policy

PREMISES AFFECTED - 106 West Market Street, north side, 55.8' south of Rockaway Point Boulevard, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

278-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Ann-Marie & Edward Reilly, lessees.

SUBJECT - Application August 10, 2004 - Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35 of the General City Law.

PREMISES AFFECTED - 21 State Road, aka Rockaway Point Boulevard, north side, 83.42' east of Beach 178th Street, Block 16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

279-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Karen & Walter Zunic, lessees.

SUBJECT - Application August 10, 2004 - Proposed enlargement of an existing one family dwelling, located within the bed of a mapped street, and has a private disposal system situated in the bed of the service lane, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 29 Suffolk Walk, east side, 240.37' south of Sixth Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

341-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Jacqueline Amari, lessee.

SUBJECT - Application October 20, 2004 - Proposed alteration and enlargement of an existing single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 115 Beach 215th Street, east side, 280' south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

SUBJECT - Application October 20, 2004 - Proposed reconstruction and enlargement of an existing single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

CALENDAR

PREMISES AFFECTED - 124 Reid Avenue, west side, 230' south of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

343-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Mary & Michael Cotter, lessees.

SUBJECT - Application October 20, 2004 - Proposed alteration and enlargement of an existing single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law. PREMISES AFFECTED - 35 Beach 220th Street, east side, 260.92' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

JANUARY 11, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, January 11, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

394-03-BZ

APPLICANT - Sheldon Lobel, Esq., for American Physique of Ridgewood, owner.

SUBJECT - Application December 23, 2003 - under Z.R. §73-36 to permit the legalization of the operation of a physical cultural establishment on the ground and mezzanine level of a one story with mezzanine building located within a M1-4D zoning district.

PREMISES AFFECTED - 16-61 Weirfield Street, between Wyckoff and Cypress Avenues, Block 3549, Lots 74, 78 and 80, Borough of Queens.

COMMUNITY BOARD #5Q

126-04-BZ

APPLICANT - Eric Palatnik, Esq., for James Bateh, owner.

SUBJECT - Application October 7, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use

REGULAR MEETING

TUESDAY MORNING, NOVEMBER 23, 2004

10:00 A.M.

Present: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

Absent: Vice-Chair Babbar.

Group 2, located in an R3-1(BR) zoning district, which does not comply with the zoning requirements for open space, floor area, also side and front yards, is contrary to Z.R. §23-141, §23-461(a) and §23-45.

PREMISES AFFECTED - 66 87th Street, south side, between Narrows Avenue and Colonial Road, Block 6046, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

258-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mindy Elmann, owner.

SUBJECT - Application November 16, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage and rear yard, is contrary to Z.R. §23-141(b) and §23-47.

PREMISES AFFECTED - 1837 and 1839 East 24th Street, south of Avenue "R", Block 6830, Lots 70 and 71 (tentative Lot 71), Borough of Brooklyn.

COMMUNITY BOARD #15BK

311-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Jack Madonia, owner.

SUBJECT - Application September 14, 2004 - under Z.R. §72-21 to permit the proposed one-family dwelling, located in an R1-2 (NA-1) zoning district, which does not provide the required lot area, requires tree removal, modification of topography and waiver of the front and rear yards requirements, is contrary to Z.R. §105-50, §105-421, §105-423 and §105-432.

PREMISES AFFECTED - 380 Lighthouse Avenue, south side, 579' west of Winsor Avenue, Block 2285, Lots 1 and 45, Borough of Staten Island.

COMMUNITY BOARD #2

Pasquale Pacifico, Executive Director

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, September 28, 2004, were approved as printed in the Bulletin of October 7, 2004, Volume 89, No. 40.

MINUTES

SPECIAL ORDER CALENDAR

780-56-BZ

APPLICANT - Vassalotti Associates Architects, LLP, for John Desiderio, owner.

SUBJECT - Application April 1, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired December 1, 2002 for an additional ten (10) years for an automobile service station with accessory convenience store, located in an R4 zoning district.

PREMISES AFFECTED - 137-21 Liberty Avenue, Block 10017, lots 17 and 18, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Hiram Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar1

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar1

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the variance, which expired on December 1, 2002; and

WHEREAS, a public hearing was held on this application on October 19, 2004, after due notice by publication in *The City Record*, and then to decision on November 23, 2004; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since December 10, 1957, when it granted an application under the subject calendar number for the erection and maintenance of a gasoline service station, lubritorium, office, accessories, sales, auto washing and motor vehicle repair shop with curb cuts within 75 feet of a residential district; and

WHEREAS, the Board has granted subsequent
1046-63-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 61st Street and Park Avenue Corp., d/b/a The Regency Hotel, 540 Park Avenue, owners; Distinctive Parking, LLC, lessee.

SUBJECT - Application August 30, 2004 - reopening for an amendment to the resolution to permit the use of surplus parking spaces for transient parking.

PREMISES AFFECTED - 540 Park Avenue, 35-39 East 61st Street, southeast corner, block bounded by Park and Madison

extensions of the term of the variance as well as minor amendments to the resolution, most recently on September 13, 1994, when the term of the variance was extended and the resolution was amended to permit the creation of an accessory retail convenience store; and

WHEREAS, the applicant states that the lapse of the variance since December 1, 2002 is due to a series of corporate changes that have occurred since the late 1990s; and WHEREAS, the applicant asserts that since the original grant in 1957, the service station facility and existing curb cuts have operated in a safe and efficient manner; and

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, and extends the term of the variance which expired on December 1, 2002, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten (10) years from December 1, 2002 expiring on December 1, 2012; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 9, 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 the above conditions shall appear on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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 #401636333)

Adopted by the Board of Standards and Appeals, November 23, 2004.

Avenues, East 61st and East 62nd Streets, Block 1376, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: James P. Power.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele,

MINUTES

Commissioner Chin and Commissioner Caliendo.....4
Negative:.....0
Absent: Vice-Chair Babbar.....1
THE RESOLUTION -

WHEREAS, this is an application for re-opening, an extension of the term of the variance that expired on January 11, 2004, and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on October 26, 2004, after due notice by publication in *The City Record*, and then to November 23, 2004 for decision; and WHEREAS, Community Board 8, Manhattan, recommended approval of this application; and

WHEREAS, the subject premises is located on the northwest corner of Park Avenue and East 61st Street, and is improved with an 18-story and penthouse apartment hotel, with an accessory 129-car garage; and

WHEREAS, on April 7, 1964, the Board granted an application under BSA Cal. No. 1046-63-A to permit use of surplus spaces for transient parking in a garage accessory to a multiple dwelling, on condition that the vehicles parked in the transient spaces would be limited to 65 and that the tenants of the multiple dwelling could recapture any of the space devoted to transient parking on 30 days notice; and

WHEREAS, the Board concurrently granted an appeals application under Cal. No. 1047-63-A, pursuant to Sections 60(1)(b) and (d) of the Multiple Dwelling Law ("MDL"), for a modification of the MDL with respect to the subject premises to allow transient parking for periods of less than one month; and

WHEREAS, on January 11, 1994, the Board granted an extension of the term of the grant for a period of ten years on condition that all tenants would be informed of their right to recapture parking spaces; and

WHEREAS, the subject application seeks an amendment to the resolution to permit an increase in the spaces to be used for transient parking from 65 to 90; and

WHEREAS, the applicant states that over the last several years, there has been a decrease in the demand for long term parking at the garage and an increase in the demand for transient parking; and

WHEREAS, the applicant further represents that the garage could accommodate all of the existing demand for long term parking and still have parking spaces available for approximately 90 transient vehicles at most hours of the day; and

WHEREAS, the Board has reviewed the record and evaluated the representations of the applicant, and finds that
256-01-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Mundream Realty Corp., owner; Hempstead Auto Care, Inc., lessee.

SUBJECT - Application March 4, 2004 - reopening for an amendment to the resolution to permit a one story enlargement to the existing building and new partitions within the salesroom.

PREMISES AFFECTED - 219-06 Hempstead Avenue, southeast corner of 219th Street and Hempstead Avenue, Block 11154, Lot 22, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to January 11, 2005, at 10 A.M., for continued hearing.

the requested extension and amendment are appropriate, with certain conditions as set forth below.

Therefore it is 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 extend the term of the variance for an additional ten (10) years from January 11, 2004, to expire on January 11, 2014, and to permit an increase in the spaces to be used for transient parking from 65 to 90; *on condition* that all work shall substantially conform to drawings as filed with this application, dated and received August 30, 2004" (4) sheets; and *on further condition*;

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

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

THAT the amount of spaces used for transient parking shall be limited to 90;

THAT all residential leases shall indicate that the spaces devoted to transient parking can be recaptured by residential tenants on 30 days notice to the owner;

THAT a sign providing the same information about tenant recapture rights be placed in a conspicuous place within the garage;

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

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect; THAT the layout

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 #103613065)

Adopted by the Board of Standards and Appeals, November 23, 2004.

151-02-BZ

APPLICANT - Law Offices of Howard Goldman, LLC, for Cavan Development Corp., owner.

SUBJECT - Application July 8, 2004 - reopening for an amendment to the resolution to permit the conversion of portion of cellar to livable space.

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

COMMUNITY BOARD #7M

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to January 11,

MINUTES

2005, at 10 A.M., for continued hearing.

273-04-A

APPLICANT - Michael S. Gruen, Esq. for Katrina Maxtone Graham, Felix C. Ziffer, Michelle R. Yogada, Stanley Ely. adjacent neighbors.

OWNER - Allen Stevenson School.

SUBJECT - Application August 5, 2004 - An Administrative Appeal challenging the Department of Building's final determination dated August 3, 2004 in which the Department refused to revoke approvals and permits which allow an enlargement of a school that violates the rear yard requirements under ZR Sections 33-26 and 33-301.

PREMISES AFFECTED - 128/32 East 78th Street and 121/23 East 77th Street, between (but not abutting) Park and Lexington Avenues, Block 1412, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Michael Gruen.

For Opposition: Janine Gayland, Department of Buildings.

ACTION OF THE BOARD - Laid over to January 25, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 10:45 A.M.

REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 23, 2004

2:00 P.M.

Present: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

Absent: Vice-Chair Babbar.

ZONING CALENDAR

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-2(R6) zoning district within the Special Northside Mixed Use district, the construction of a five-story and cellar residential building, contrary to Z.R. §42-00; and

WHEREAS, the original version of this proposal contemplated the following: seven stories; a Floor Area Ratio ("FAR") of 4.31; 60 units; 24 parking spaces; a perimeter wall height of 62 ft.; and a total height of 74 ft.; and

WHEREAS, Community Board 1, Brooklyn, recommended disapproval of the original version, due to the requested bulk waivers; and

WHEREAS, the City Planning Commission ("C.P.C."), by letter dated February 19, 2004, recommended that the original version not be granted unless modified to conform generally with the height and bulk limitations applicable to the Department of City Planning's proposed rezoning for the Greenpoint-Williamsburg area; and

186-03-BZ

CEQR #03-BSA-202K

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit in an M1-2(R6) zoning district within the Special Northside Mixed Use district, the construction of a five-story and cellar residential building, with 42 units, an FAR of 2.87 FAR, a perimeter wall height of 42 feet, a total height of 54 feet; and 21 parking spaces, contrary to Z.R. §42-00.

PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 5, 2003, acting on Department of Buildings Application No. 301545898, reads:

"Proposed residential Use Group 2 not permitted in M1-2[R6 within the Special Northside Mixed Use district] zoning district as per Z.R. 42-00"; and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due publication in *The City Record*, with continued hearings on April 13, 2004, April 27, 2004, June 15, 2004, August 10, 2004, August 17, 2004, and October 5, 2004 and then to decision on November 23, 2004; and

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

WHEREAS, various community members also appeared in opposition to the subject application; and

WHEREAS, the Board, upon reviewing the original version, shared the concerns of the Community Board and C.P.C., and, as discussed below, suggested to the applicant during the public hearing that the proposal be reduced in size; and

WHEREAS, the subject site is located on the west side of Union Avenue, 48 feet south of the intersection of Withers Street and Union Avenue, has a total lot area of 15,545 sq. ft., and is improved upon with an existing one-and-two-story manufacturing building with 19,369 sq. ft. of total floor area; and

WHEREAS, the site is within the Special Northside Mixed Use district, where residential use is allowed through special permit from C.P.C. provided that certain prerequisites are met; however, the subject site does not

MINUTES

meet these prerequisites, and a variance for use is therefore required; and

WHEREAS, the current proposal contemplates the demolition of the existing building and the construction of a new building with the following parameters: five stories; a FAR of 2.87; 42 units; 21 parking spaces; a perimeter wall height of 42 ft.; and a total height of 54 ft.; and

WHEREAS, in addition to the original version, an intermediate version of the proposal, submitted on April 12, 2004, contemplated the following: six stories; a FAR of 3.50; 51 units; no parking spaces; a perimeter wall height of 52 ft.; and a total height of 64 ft.; and

WHEREAS, a second intermediate version of the proposal, submitted on June 15, 2004, reinstated the 24 parking spaces; and

WHEREAS, in response to Board concerns about the proposed bulk, the application was subsequently modified to reflect the current proposal; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the lot is irregularly shaped, in that the property's Union Avenue frontage extends for 175 feet, and, at the southern edge of the lot, the depth of the site from Union Avenue is 90 feet, and over the next 50 feet heading in a northerly direction the depth increases to 120 feet, and thereafter, the depth of the property to its northerly lot line is only 80 feet; (2) the existing building is obsolete, with inadequate freight elevator service, inadequate ceiling height on both floors, and wooden floors with a poor load bearing capacity; (3) the site is in close proximity to the subway line and the air vents located in the sidewalk, which results in substantial additional development costs related to special foundation work and construction materials; and (4) the site is near a church, church school, rectory and convent facility, as well as multiple dwellings, which are uses incompatible with conforming manufacturing uses; and

WHEREAS, in amplification of the first component of the claimed basis for uniqueness (lot shape), the applicant states that a complying commercial/industrial building on the

WHEREAS, over the course of the hearing process, the applicant determined that the premium foundation costs associated with the site's proximity to the subway were estimated to be approximately 1 million dollars; and

WHEREAS, the applicant's financial consultant submitted a revised analysis incorporating the subway costs, which the Board finds credible and sufficient; and

WHEREAS, the Board also asked the applicant to analyze a scenario including conversion and enlargement of the existing building, which would potentially reduce construction costs and the requested FAR waiver; and

WHEREAS, the applicant's engineer made a submission in response, explaining that the existing building is not likely to be able to handle the additional load of new stories due to its structural limitations, so re-use of it is not possible; and

WHEREAS, at the request of the Board, the applicant submitted a letter from its financial consultant regarding

site would need to have a 20 foot rear yard for the southern 125 feet of frontage, and that the resulting configuration would be both costly to build and, due to resulting inefficient floor plates for conforming uses, not particularly attractive to commercial/industrial users; and

WHEREAS, in support of the claim that the site's proximity to the subway and vents poses a hardship, the applicant has submitted a drawing illustrating a cross section of the proposed building and the adjacent subway tunnel and the vent shaft; and

WHEREAS, at the request of the Board, the applicant also submitted documentation from the NYC Transit Authority ("NYCTA") regarding construction practice limitations imposed due to the proximity of the subway tunnel; and

WHEREAS, the Board has reviewed this drawing and the NYCTA documentation and agrees that the site is in close enough proximity to the subway such that construction practices could be impacted; and

WHEREAS, specifically, the Board agrees with the applicant's claim that the proximity of the subway to the development site necessitates expensive underpinning of the subway tunnel; and

WHEREAS, the engineer further explained that due to the weight of pile-driving machinery and equipment, special bridging would be needed to support the subway vents in the sidewalk in front of the site, which lends further credence to the assertion that construction costs will increase due to the proximity of the subway; and

WHEREAS, accordingly, the Board finds that certain of the aforementioned unique physical conditions - specifically, the lot's proximity to the subway and vents and the resulting increased construction costs, and the its irregular shape - when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant submitted a feasibility study purporting to show that a conforming manufacturing use scenario would not yield a reasonable return; and

valuation of the property exclusive of the obsolete building; and

WHEREAS, this letter states that the previously submitted valuation of the site represents the fair market value of the site even if the site were considered vacant; and

WHEREAS, the applicant also submitted evidence of failed marketing attempts for a conforming use; and

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

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood and that residential use of the site is compatible with the numerous residential uses in the surrounding area; and

WHEREAS, the applicant states that the site is within a mixed-use neighborhood, with both residential and community facility uses in the immediate vicinity; and

MINUTES

WHEREAS, the applicant cites specifically to residential-compatible uses immediately adjacent to the site (a church, school, rectory and convent next door, as well as a park nearby); and

WHEREAS, as to the bulk of the proposed building given the context of the neighborhood, the applicant states that clustered in various locations in the vicinity are 5-story and 4-story residential buildings, having streetwalls rising straight up at the lot line to the top of their respective parapet walls, and that interspersed throughout the area are other 3- and 4-story buildings; and

WHEREAS, the Board notes that the streetwall rises four stories, but the fifth story is set back, which reduces the visual impact of the fifth story when the building is viewed from the street level; and

WHEREAS, in support of these statements and at the request of the Board, the applicant has submitted a revised land use map with building heights listed, as well as photographs; and

WHEREAS, the Board notes that the site is within the Special Northside Mixed Use district, which contemplates residential use within R6 bulk parameters; and

WHEREAS, as discussed above, the applicant reduced the bulk of the proposal to comply with the bulk parameters applicable to R6 equivalent development, under Quality Housing provisions for wide streets; and

WHEREAS, specifically, the proposed FAR is now 2.87, which is less than the 3.0 FAR allowed for Quality Housing development on a wide street such as Union Avenue; and

WHEREAS, the Board also notes that the proposed bulk now comports with the bulk that would be allowed in the afore-mentioned proposed rezoning area; and

WHEREAS, at the request of the Board and in light of comments made by the Community Board, the height of the

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the December 26, 2003 CEQR submission specifically examined the proposed action for potential hazardous materials, traffic, parking, transit and pedestrian impacts and determined that there would not be any impacts; and

WHEREAS, the December 26, 2003 CEQR submission also specifically examined the proposed action for potential air quality impacts, and due to potential air quality impacts resulting from the subject site's proximity to the Brooklyn-Queens Expressway, the Board is imposing a condition that requires that an alternate means of ventilation (either central air-conditioning or a provision for air-conditioner sleeves for use with an air-conditioner or HUD-approved fan) be provided; and

mechanical equipment to be located on the roof of the proposed building was reduced; and

WHEREAS, the Board has reviewed the submitted maps and photos and has conducted a site visit, and concludes that the proposed use and bulk of the building will be compatible with the surrounding uses and built conditions; and

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

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

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate building form, the applicant significantly modified the proposal to reflect a lower, decreased bulk building that complies with the bulk provisions applicable to the proposed rezoning area; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 03-BSA-202K dated October 28, 2003; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. § 72-21 and grants a variance to permit, in an M1-2(R6) zoning district within the Special Northside Mixed Use district, the construction of a five-story and cellar residential building, with 42 units, an FAR of 2.87 FAR, a perimeter wall height of 42 feet, a total height of 54 feet; and 21 parking spaces, contrary to Z.R. § 42-00; *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 "Received November 9, 2004" - (10) sheets; and *on further condition*;

THAT alternate means of ventilation (either central air-

MINUTES

conditioning or a provision for air-conditioner sleeves for use with an air-conditioner or HUD-approved fan) be provided;

THAT the air intake duct for the building's HVAC system shall be located on top of the building;

THAT all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT all fire protection measures as set forth in the May 25, 2004 Fire Protection Synopsis and/or as noted on the BSA-approved plans shall be implemented and maintained;

THAT all Quality Housing features as noted on the BSA-approved plans shall be implemented and maintained;

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, November 23, 2004.

137-04-BZ

CEQR #04-BSA-148K

APPLICANT - Sheldon Lobel, P.C., for Steven Sharabli, owner.

SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit within an R3-2 zoning district, the proposed enlargement of an existing single family residence (Use Group 1), which does not comply with the zoning requirements for floor area, lot coverage, side yard and rear yards, contrary to Z.R. §§23-141(a), 23-48, and 23-47.

PREMISES AFFECTED - 1755 East 28th Street, between Quentin Road and Avenue "R", Borough of Brooklyn.

WHEREAS a public hearing was held on this application on November 9, 2004 after due notice by publication in *The City Record*, and then to November 23, 2004 for decision; and

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

WHEREAS, Community Board 15, Brooklyn recommended approval of this application; and

WHEREAS, this is an application under Z.R. §§73-622 and 73-03 to permit, within an R3-2 zoning district, the proposed enlargement of an existing single family residence (Use Group 1), which does not comply with the zoning requirements for floor area, lot coverage, and side yard and rear yards, contrary to Z.R. §§23-141(a), 23-48, and 23-47; and

WHEREAS, the subject lot is located on East 28th Street between Quentin Road and Avenue R, and has a total lot area of approximately 2,580 sq. ft.; and

WHEREAS, the applicant states that the subject lot is improved upon with an existing two-story and cellar residential structure; and

WHEREAS, the applicant seeks an increase in the floor

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar1

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar1

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

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

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 29, 2004, acting on Department of Buildings Application No. 301677031, reads, in pertinent part:

- "1. [Floor Area Ratio] and [Lot Coverage] is contrary to ZR section 23-141[a]
2. Side yard required is contrary to [ZR] section 23-48
3. Rear yard required is contrary to [ZR] section 23-47"; and

area from 1,689 sq. ft. (0.66 Floor Area Ratio or "FAR") to 2,055 sq. ft. (0.80 FAR) B the maximum floor area permitted including an extra 100 sq. ft. for the garage is 1,390 sq. ft (0.54 FAR); and

WHEREAS, the proposed enlargement will reduce the open space from 2,389 sq. ft. (0.70 Open Space Ratio or "OSR") to 2,210 sq. ft. (0.58 OSR) - the minimum open space required is 2,210 square feet (0.65 OSR); and

WHEREAS, the proposed enlargement will also increase the lot coverage from 887 sq. ft. (34.4%) to 1,047 sq. ft. (40.6%) - the maximum lot coverage permitted is 903 sq. ft. (35%); and

WHEREAS, the enlargement will reduce the rear yard from 32'-10.5" to 20'-0" (the minimum rear yard permitted is 30'-0"); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

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

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

MINUTES

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03 to permit, within an R3-2 zoning district, the proposed enlargement of an existing single family residence (Use Group 1), which does not comply with the zoning requirements for floor area, lot coverage, side yard and rear yards, contrary to Z.R. §§23-141(a), 23-48, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received November 12, 2004"-(5) sheets and "Received November 22, 2004"-(1) sheet; and *on further condition*;

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Negative:.....0
Absent: Vice-Chair Babbar.....1
THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 20, 2004, acting on Department of Buildings Application No. 103715838, reads:

"Proposed use of physical cultural establishment is not permitted as of right in M1-6 district. It is contrary to ZR 42-10."; and

WHEREAS, a public hearing was held on this application on October 19, 2004 after due notice by publication in *The City Record* with a continued hearing on November 9, 2004, and then to decision on November 23, 2004; and

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

WHEREAS, Community Board 5, Manhattan, and the Fashion District Business Improvement District recommended disapproval of this application; and

WHEREAS, this is an application under Z.R. §§73-36 and 73-03, to permit a proposed Physical Culture Establishment ("PCE") use in the cellar of an existing twelve-story building, located within an M1-6 zoning district, contrary

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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, November 23, 2004.

173-04-BZ

CEQR #04-BSA-178M

APPLICANT - Eric Palatnik, P.C., for 345 Park South LLC, owner; NY Midtown Corp., lessee.

SUBJECT - Application April 26, 2004 - under Z.R. §73-36 to permit a proposed Physical Culture Establishment use in the cellar of an existing twelve-story building, located within an M1-6 zoning district, contrary to Z.R. §42-10.

PREMISES AFFECTED - 5/9 West 37th Street, 200' east of Fifth Avenue, Block 839, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

to Z.R. § 42-10; and

WHEREAS, the subject building is located on the north side of West 37th Street between Fifth Avenue and the Avenue of the Americas; and

WHEREAS, the applicant represents that the proposed PCE will have total area of 4,147.5 square feet; and

WHEREAS the applicant represents that the proposed PCE will provide the following services: massage, manicure, pedicure, skincare and body scrubs; and

WHEREAS, the applicant further states the PCE will contain 13 therapy rooms for massage performed by New York State licensed masseurs or masseuses, two private showers and three saunas; and

WHEREAS, the applicant represents that the subject premises is occupied by a restaurant and a retail store on the first floor, offices on floors two through four and six through twelve, and a manufacturing use on the fifth floor, and that such uses are compatible with the PCE; and

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

WHEREAS, the Department of Investigation has

MINUTES

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

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

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazards or disadvantages to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-178M, dated August 13, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Archaeological Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the

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

THAT sound attenuation measures shall be installed and maintained as reflected on the BSA-approved plans;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT the applicant must submit massage licenses for all employees performing massages for the Board's review and approval prior to the issuance of a temporary or permanent Certificate of Occupancy;

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

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

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

Adopted by the Board of Standards and Appeals, November 23, 2004.

200-04-BZ
CEQR #04-BSA-199M

environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-03, to permit a proposed Physical Culture Establishment use in the cellar of an existing twelve-story building, located within an M1-6 zoning district, contrary to Z.R. §42-10; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 15, 2004"-(2) sheets; and *on further condition*;

THAT this special permit shall be limited to a term of ten years from November 23, 2004, expiring on November 23, 2014;

THAT all massages will be performed only 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 the hours of operation shall be limited to: 10:00 AM to 12:00 AM daily;

APPLICANT - David Vandor, for Mr. Frank Renna, President of D'Aprile Development and Leasing, owner.

SUBJECT - Application May 12, 2004 - under Z.R. §72-20 to permit the proposed construction of a nine story residential and community facility building, Use Groups 2 and 4, on a narrow vacant lot, encumbered by a massive rock outcropping, in an R8 zoning district, which does not comply with the zoning requirements for height and setback, is contrary to Z.R. §23-692 and §23-62.

PREMISES AFFECTED - 703 West 171st Street, Fort Washington Avenue on the east and Haven Avenue on the west, Block 2139, Lot 199, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES -

For Applicant: David Vandor.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated April 19, 2004, acting on Department of Buildings Application No. 103683426, reads in pertinent part:

MINUTES

- “1. ZR 23-692 Proposed construction exceeds maximum permitted height, [and] is contrary to Section 23-692 ZR.
2. ZR 23-62 Proposed stair, elevator bulkheads, & water tank exceeds maximum permitted obstruction above the height limitation of narrow buildings, [and] is contrary to 23-62 ZR.”; and

WHEREAS, a public hearing was held on this application on October 26, 2004 after due publication in *The City Record*, and then to decision on November 23, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R8 zoning district, the proposed construction of a nine-story and cellar mixed-use building, which does not comply with applicable height requirements, contrary to Z.R. §§23-62 and 23-692; and

WHEREAS, Community Board No. 12, Manhattan, recommended conditional approval of this application; and

WHEREAS, the subject lot is a vacant interior lot located on the north side of West 171st Street between Washington and Haven Avenues, measuring 25 ft. by 100 ft., with a total lot area of 2500 sq. ft.; and

WHEREAS, the applicant states that an as-of-right multiple dwelling constructed on top of the rock outcropping is not feasible because of the issues related to providing a practical entrance and elevator lobby and because of the inherent difficulties of constructing foundations for a multi-story building along the edge of and on top of unstable rock; and

WHEREAS, therefore, the rock outcropping must be removed down to a level below grade and below the adjacent side yard to the east in order for a stable foundation to be constructed; and

WHEREAS, the applicant asserts that due to the narrowness of the site, the single access point on one street, and the close proximity of adjacent residential uses with windows facing the site across side yards, the removal of more than 45,000 cubic feet of above-grade rock and a significant amount of rock below grade, will need to be done by “hand” demolition, not by blasting or heavy equipment; and

WHEREAS, the applicant represents that the subject premises is further constrained by the requirements of ZR §23-692, which limits the height of developments on lots with a width of less than 45 ft.; and

WHEREAS, the applicant represents that the proposed height of the building is necessary, given the need to use available floor area and the limitations imposed by the applicable height provisions; and

WHEREAS, the Board finds that the aforementioned unique physical conditions create unnecessary hardship and practical difficulties in developing the site in conformity with

WHEREAS, the proposed building will contain community facility use on the cellar level and first floor, with seven residential units on floors 2 through 9; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in strict compliance with underlying district regulations: (1) the subject site is burdened with an approximately 18'-0" high solid rock outcropping that covers the entire lot; and (2) the rock partially abuts a six-story residential building to the west along a common lot line and abuts a side yard of the six-story residential building to the east; and

WHEREAS, the applicant represents that the rock outcropping extends beyond the boundaries of the zoning lot, to the public right of way in front of the property, where a staircase has been carved into the rock by a prior owner to allow access to the top of the rock; and

WHEREAS, the applicant further states that while the other parcels of land nearby benefited from multifamily development from the early 1900's to the 1930's, the subject property was never developed with more than a single-family house, located on the top of the rock; and

WHEREAS, evidence in the record indicates that after receiving a number of “unsafe building” citations from the Department of Buildings, the single-family house was demolished in 1977 and the site has remained vacant since; and

the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the premises with a building which complies with the height requirements of Z.R. §§23-692 and 23-62 would not yield the owner a reasonable return; and

WHEREAS, the Board asked the applicant to re-evaluate the feasibility study, to take into account the decreased land value due to “sliver building” zoning restrictions; and

WHEREAS, the financial consultant submitted a letter stating that if such a reduced land value is incorporated into the feasibility study, the return on equity remains below the level that investors would consider reasonable; and

WHEREAS, also at the request of the Board, the financial consultant analyzed a development scheme with a building with a four foot setback at the eighth floor; and

WHEREAS, the financial consultant concluded that such a scenario would not result in a change in overall income; and

WHEREAS, based upon its review of the submitted feasibility study, 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 regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and that the use is compatible with the surrounding neighborhood, which is composed almost entirely of multiple dwellings; and

MINUTES

WHEREAS, in response to Board and community-based concerns, the applicant has modified the design of the building to provide a 4'-0" setback on the eighth floor, as well as a street-facade that is more sensitive to the context of the surrounding area; and

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit, in an R8 zoning district, the proposed construction of a nine-story and cellar mixed-use building, which does not comply with the requirements for height, contrary to Z.R. §§23-62 and 23-692; *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 "Received November 9, 2004"-(1) sheets; and *on further condition*;

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

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

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

THAT the proposed building shall comply with the following height and setback calculations as indicated on the approved plans: (1) a 4'-0" setback at 69'-5"; (2) a 15'-0" setback at 78'-0"; (3) a total building height of 88'-6"; and (4) an overall building height, inclusive of the bulkhead, of 100'-3";

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.

information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04 BSA 199 M dated May 11, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Adopted by the Board of Standards and Appeals, November 23, 2004.

242-04-BZ

CEQR #04-BSA-223K

APPLICANT - Moshe M. Friedman, P.E., for Yeruchem Miller, contract vendee.

SUBJECT - Application June 29, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, also side and rear yards, is contrary to Z.R. §223-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1440 East 26th Street, west side, 527'-8" north of Avenue "O", Block 7679, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Moshe Friedman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

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

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 10, 2004, acting on Department of Buildings Application No. 301756277, reads, in pertinent part:

"Extension to existing 1 family dwelling is contrary to ZR 23-141(a) Floor Area Ratio, ZR 23-141(a)Open Space Ratio, ZR 23-47Rear Yard,

MINUTES

ZR 23-48 Minimum Required Side Yard

And requires a Special Permit from the Board of Standards and Appeals as per Sec 73-622"; and

WHEREAS a public hearing was held on this application on October 19, 2004 after due notice by publication in *The City Record*, and then to November 23, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §§73-622 and 73-03 to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear yard, and minimum required side yard, contrary to Z.R. §§23-141(a), 23-47 and 23-48; and

WHEREAS, Brooklyn Community Board 14 recommended approval of this application; and

WHEREAS, the applicant represents that there will be no change to the existing non-complying side yards, which measure 3'-5" and 6'-8" - the minimum side required side yard is 5'-0"; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

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

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

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, rear yard, and minimum required side yard, contrary to Z.R. §§23-141(a), 23-47 and 23-48; *on condition* that all work shall substantially conform to drawings as they apply to the

WHEREAS, the subject lot is located on the west side of East 26th Street between Avenue N and Avenue O, and has a total lot area of approximately 2,733 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story, cellar and attic residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 1,780.23 sq. ft. (0.65 Floor Area Ratio or "FAR") to 2,759.60 sq. ft. (1.01 FAR) - the maximum floor area permitted is 1,366.65 sq. ft (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the open space ratio (Open Space Ratio or "OSR") from 0.9653 to 0.5552 OSR - the minimum required is 1.5 OSR; and

WHEREAS, the proposed enlargement will maintain the existing non-complying 10'-0" front yard on the first floor and reduce the front yard from 22'-0" to 15'-0" on the second floor - the required front yard is 15'-0"; and

objection above-noted, filed with this application and marked "Received November 4, 2004"-(6) sheets, and "Received June 29, 2004"-(2) sheets; and *on further condition*;

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT any rear porch, side open stoop or bay windows shall be as approved by the Department of Buildings; THAT this a

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, November 23, 2004.

261-04-BZ

CEQR #05-BSA-013K

APPLICANT - Moshe M. Friedman, P.E., for Peretz Toiv, owner.
SUBJECT - Application July 22, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space and lot coverage, contrary to Z.R. §23-141(a) and (b).

PREMISES AFFECTED - 2824 Avenue "R", southwest corner of East 29th Street, Block 6834, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Moshe M. Friedman.

MINUTES

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

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

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 22, 2004, acting on Department of Buildings Application No. 301778752, reads, in pertinent part:

WHEREAS, this is an application under Z.R. §§73-622 and 73-03 to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space and lot coverage, contrary to Z.R. §23-141(a) and (b); and

WHEREAS, the subject lot is located on the southwest corner of Avenue R and East 29th Street, and has a total lot area of approximately 3,400 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story and cellar residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 1,722.0 sq. ft. (0.51 Floor Area Ratio or "FAR") to 3,328.71 sq. ft. (0.98 FAR) - the maximum floor area permitted is 1,700 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the open space from 2,389 sq. ft. (0.70 Open Space Ratio or "OSR") to 2,210 sq. ft. (0.58 OSR) - the minimum open space required is 2,210 square feet (0.65 OSR); and

WHEREAS, the proposed enlargement will also increase the lot coverage from 1,011.0 sq. ft. (30%) to 1,417.13 sq. ft. (42%) - the maximum lot coverage permitted is 1,190 sq. ft. (35%); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

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

WHEREAS, the applicant represents that although there are two existing non-complying front yards of 9' and 11'-6", the proposed extension will provide the required 10' and 15' front yards; and

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

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

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

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the

"Extension to existing 1 family dwelling is contrary to ZR 23-141[a]Floor Area Ratio, ZR 23-141[a]Open Space, ZR 23-141(b)Lot Coverage,

And requires a Special Permit from the Board of Standards and Appeals as per Sec 73-622"; and

WHEREAS a public hearing was held on this application on November 16, 2004 after due notice by publication in *The City Record*, and then to November 23, 2004 for decision; and

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

community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space and lot coverage, contrary to Z.R. §23-141(a) and (b); *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received July 22, 2004"-(2) sheets; marked "Received November 16, 2004"-(7) sheets; and *on further condition*;

THAT there shall be no habitable room in the cellar;

THAT the above conditions shall be set forth on the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT the Department of Buildings shall review and confirm the total proposed floor area, including any floor area in the attic;

THAT all rooms to be occupied must comply with all legal requirements as to habitability, as determined 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; no approval has been given by the Board as to the use and layout of the cellar;

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.

MINUTES

Adopted by the Board of Standards and Appeals,
November 23, 2004.

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.

214-03-BZ

APPLICANT - The Agusta Group, for 388 Broadway Owners LLD, owner; Sunny Cheuck, lessee.
SUBJECT - Application December 23, 2003 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, located on the first floor of a five story loft building, in an M1-5 zoning district, which requires a special permit.
PREMISES AFFECTED - 388 Broadway, east side, between White and Walker Streets, Block 195, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Sol Korman.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

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

ACTION OF THE BOARD - Laid over to December 14, 2004, at 1:30 P.M., for decision, hearing closed.

355-03-BZ

APPLICANT - Agusta & Ross, for D'Angelo Properties, Inc., owner.

SUBJECT - Application September 27, 2004 - under Z.R. §72-21 to permit the proposed four story and penthouse mixed-use multiple dwelling, Use Groups 2 and 6, in a C2-2/R4 zoning district, which does not comply with the zoning requirements for residential floor area, building height, number of dwelling units and residential front yard, is contrary to Z.R. §23-141, §23-60, §35-20, §23-22 and §23-45.

PREMISES AFFECTED - 64-01/07 Grand Avenue, northeast corner of 64th Street, Block 2716, Lot 1, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant: Mitchell Ross, Michael D'Alto, Mildred Brown, Paul Marcel, Patrick Arma, Patrick Benenati, Rosemary Marcerie and Carolyn Pair.

For Opposition: Manuel Carvana, Rosemary Felle, Warren Chow, Robert Marwoff, Carrel Broer and Patrick Bennett.

ACTION OF THE BOARD - Laid over to January 25, 2005, at 1:30 P.M., for continued hearing.

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 -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Laid over to January 11, 2005, at 1:30 P.M., for continued hearing.

391-03-BZ

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

SUBJECT - Application December 22, 2003 - under Z.R. §72-21 to permit the proposed construction of an eight-story plus basement residential building, Use Group 2, located in an R6 zoning district, which does not comply with the zoning requirements for maximum building height and floor area, is contrary to Z.R. §23-633 and §23-145.

PREMISES AFFECTED - 1288 East 19th Street, between Avenues "L and M", Block 6738, Lots 36, 38, 137 and part of 136, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

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

ACTION OF THE BOARD - Laid over to December 14, 2004, at 1:30 P.M., for decision, hearing closed.

147-04-BZ

APPLICANT - Sullivan, Cheser & Gardner, P.C., for Ben Schrank, owner.

SUBJECT - Application April 8, 2004 - under Z.R. §72-21 to permit the proposed conversion of a light manufacturing building, to residential use, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 459 Carroll Street, 175' west of the corner of Carroll Street and Third Avenue, Block 447, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to January 25, 2005, at 1:30 P.M., for deferred decision.

203-04-BZ

APPLICANT - Dennis D'Dellangelo, for Benjamin Epstein, owner.
SUBJECT - Application May 17, 2004 - under Z.R. §73-622 to permit the proposed horizontal enlargement to an existing detached one family dwelling, which creates non-compliance with respect to

MINUTES

open space ratio and floor area ratio, is contrary to Z.R. §23-14.
PREMISES AFFECTED - 2801 Avenue "N", northeast corner of East 28th Street, Block 7664, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

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

ACTION OF THE BOARD - Laid over to January 11, 2005, at 1:30 P.M., for decision, hearing closed.

204-04-BZ

APPLICANT - Dennis D'Dellangelo, for Simy Kofman, owner.
SUBJECT - Application May 17, 2004 - under Z.R. §73-622 to permit the proposed horizontal enlargement to an existing detached one family dwelling, which creates non-compliance with respect to open space ratio, floor area ratio, also rear and side yards, is contrary to Z.R. §23-14, §23-46 and §24-47.

PREMISES AFFECTED - 1116 East 22nd Street, west side, 340' south of Avenue "J", Block 7603, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Dennis D'Dellangelo.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

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

ACTION OF THE BOARD - Laid over to January 11, 2005, at 1:30 P.M., for decision, hearing closed.

237-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Tony Perez Cassino, owner.

SUBJECT - Application June 21, 2004 - under Z.R. §72-21 to permit the proposed construction of a two-unit detached house, in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage ratio, height, side and front yards, and is contrary to Z.R. §23-141, §23-48, §23-45 and §23-631.

PREMISES AFFECTED - 5722 Faraday Avenue, southeast corner of Valles Avenue, Block 5853, Lot 2198, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Laid over to January 11, 2005, at 1:30 P.M., for continued hearing.

268-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Paula

APPEARANCES -

For Applicant: Dennis D'Dellangelo.

THE VOTE TO CLOSE HEARING-

Saff, owner.

SUBJECT - Application July 30, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence in an R-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and side and rear yards, is contrary to Z.R. §23-461, §23-141 and §23-47.

PREMISES AFFECTED - 1246 East 22nd Street, between Avenues "K" and "L", Block 7621, Lot 78, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman and Esra Saff.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

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

ACTION OF THE BOARD - Laid over to December 14, 2004, at 1:30 P.M., for decision, hearing closed.

311-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Jack Madonia, owner.

SUBJECT - Application September 14, 2004 - under Z.R. §72-21 to permit the proposed one-family dwelling, located in an R1-2 (NA-1) zoning district, which does not provide the required lot area, requires tree removal, modification of topography and waiver of the front and rear yards requirements, is contrary to Z.R. §105-50, §105-421, §105-423 and §105-432.

PREMISES AFFECTED - 380 Lighthouse Avenue, south side, 579' west of Winsor Avenue, Block 2285, Lots 1 and 45, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Adam Rothkrug.

For Opposition: Dr. Marilyn Aronson, Dr. Natalyn Shuartsfurw, Stephen Lauria and Helen Kravetz.

ACTION OF THE BOARD - Laid over to January 11, 2004, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 4:00 P.M.