
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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September 23, 2004

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COMMUNITY BOARD #8Q

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COMMUNITY BOARD #8Q

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COMMUNITY BOARD #7M

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COMMUNITY BOARD #14BK

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Street, Block 15596, Lot 7, Borough of Queens. Alt.
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Yeshiva, Use Group 3, located in an R3-1 zoning district,
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COMMUNITY BOARD #14BK

294-04-BZ B.Q. 103-05 35th Avenue,
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COMMUNITY BOARD #3Q

295-04-BZ B.S.I. 3250 Richmond Avenue,
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DOCKETS

COMMUNITY BOARD #3SI

296-04-BZ B.M. 135 Orchard Street, (a/k/a 134 Allen Street), between Delancey and Rivington Streets, Block 415, Lot 69, Borough of Manhattan. Applic. #102666394. The legalization of Class "A" Multiple Dwellings, Use Group 2, located in a C6-1 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and interior density, is contrary to Z.R. §23-142, §35-23, §23-22 and §35-40.

COMMUNITY BOARD #3M

297-04-BZ B.BK. 1174 East 22nd Street, southwest corner of Avenue "K", Block 7621, Lot 47, Borough of Brooklyn. Alt.1 #301825755. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirement for floor area ratio, is contrary to Z.R. §23-141.

COMMUNITY BOARD #14BK

298-04-BZ B.BK. 1746 East 21st Street, west side, 440' north of Quentin Road, Block 6783, Lot 18, Borough of Brooklyn. Applic. #301601924. Proposed conversion of a two family residential house to a Yeshiva (Religious School), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, street wall, sky exposure, side and rear yards, is contrary to Z.R. §24-11, §24-521, §24-35(a) and §24-36.

COMMUNITY BOARD #15BK

299-04-BZ B.Q. 111-02 Sutphin Boulevard, (a/k/a 111-04/12 Sutphin Boulevard), southeast corner of 111th Avenue, Block 11965, Lots 26, 188 and 189 (tentative 26), Borough of Queens. N.B. #401955595. Proposed construction of a one-story retail building, Use Group 6, located in an R3-2 zoning district, is contrary to Z.R. §22-11.

COMMUNITY BOARD #12Q

300-04-BZ B.BK. 66 Huron Street, southwest corner of Franklin Street, Block 2531, Lot 12, Borough of Brooklyn. Alt.1 #301046981. Proposed physical culture establishment, located on the first and second floors of a two story building, in an M1-1 zoning district, requires a special from the Board as per Z.R. §73-

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COMMUNITY BOARD #1BK

301-04-BZY B.S.I. 102 Greaves Avenue, corner of Dewey Avenue, Block 4568, Lot 40, Borough of Staten Island. N.B. #500695606. Application to complete construction for a minor development as per Z.R. §11-331.

302-04-BZ B.BK. 40 Woodhull Street, south side, 85' west of Hicks Street, Block 363, Lot 20, Borough of Brooklyn. Applic. #301683998. Proposed construction of a residential building on a vacant lot, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #6BK

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

CALENDAR

OCTOBER 19, 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 19, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

457-56-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Beatrice Trachtman, owner.

SUBJECT - Application June 24, 2004- request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired February 13, 2004 to permit accessory parking of motor vehicles, customer parking, loading and unloading in conjunction with adjacent factory building, located in an R6 zoning district.

PREMISES AFFECTED - 152/4 India Street, south side of India Street 150' east of Manhattan Avenue, Block 2541, Lots 12 & 13, Borough of Brooklyn.

COMMUNITY BOARD #1

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.

799-62-BZ

APPLICANT - Sheldon Lobel, P.C., for 350 Condominium Association, owner.

SUBJECT - Application February 24, 2004- request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance for an existing multiple dwelling, the use of the surplus spaces in the accessory garage for transient parking.

PREMISES AFFECTED - 501 First Avenue, a/k/a 350 East 30th Street, lower level parking garage along west of First Avenue, between East 30th and East 29th Streets, Block 935, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6

236-98-BZ

APPLICANT - Deidre A. Carson, Esq., Greenberg Traurig, LLP, for Anthony Fernicola, owner.

SUBJECT - Application June 1, 2004 - reopening for an extension of time to complete construction.

PREMISES AFFECTED - 103-117 Kent Avenue, northeast corner of the intersection of Kent Avenue and North 7th Street, Block 2317, Lots 1, 3, 5, 6, 7 & 36, Borough of Brooklyn.

COMMUNITY BOARD #1

OCTOBER 19, 2004, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, October 19, 2004, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

173-04-BZ

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 the legalization 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.

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

COMMUNITY BOARD #5

190-04-BZ

APPLICANT - Agusta & Ross, for Ira and Larry Weinstein, LLC, owner.

SUBJECT - Application May 7, 2004 - under Z.R. §72-21 to permit

the 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.

PREMISES AFFECTED - 2184 Mill Avenue, a/k/a 6001 Strickland Avenue, southwest corner, Block 8470, Lot 1090, Part of Lot 1091, Borough of Brooklyn.

COMMUNITY BOARD #18

CALENDAR

242-04-BZ

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 #14

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 14, 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, June 15, 2004, were approved as printed in the Bulletin of June 24, 2004, Volume 89, No. 26.

SPECIAL ORDER CALENDAR

20-83-BZ

APPLICANT - Sheldon Lobel, P.C., for Pierina Alongi, owner.
SUBJECT - Application January 15, 2004 - reopening for a waiver of Rules of Procedures and an extension of term for a commercial use in a residential district.

PREMISES AFFECTED - 265-07 Hillside Avenue, Hillside Avenue between 265th and 266th Streets, Block 8777, Lot 31, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Irving Minkin.

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 Miele, Commissioner Caliendo and Commissioner Chin.....5
Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on August 10, 2004, after due notice by publication in the *City Record*, and then to September 14, 2004 for decision; 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 variance which expired on August 16, 2003; and

WHEREAS, on August 16, 1983, the Board granted an application under the subject calendar number, pursuant to Z.R. §72-21, permitting a one-story enlargement to an existing three-story residential building, for use as a barbershop; and

WHEREAS, on April 26, 1994, the term of the variance was extended for 10 years from August 16, 1993; and

WHEREAS, the applicant represents that there have been no changes to the existing configuration or use of the premises; and

WHEREAS, the Queens Borough President and
THE VOTE TO GRANT -

Queens Community Board, 13 recommend approval of this application.

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 August 19, 1983, as amended through April 26, 1994, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional (10) years from August 16, 2003 to expire on August 16, 2013, *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 15, 2004"-(3) 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 and all applicable conditions from prior resolutions shall appear on the certificate of occupancy;

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 #401764275)

Adopted by the Board of Standards and Appeals, September 14, 2004.

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

APPEARANCES - None.

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

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

MINUTES

Commissioner Miele, Commissioner Caliendo and
Commissioner Chin.....5
Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on June 8, 2004, after due notice by publication in the *City Record*, with continued hearings on July 20, 2004 and August 10, 2004 and then to September 14, 2004 for decision; and

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

WHEREAS, the Board has exercised jurisdiction over the subject property since June 29, 1954, when it granted a variance under Calendar No. 691-53-BZ, to permit in a Residential Use District, the extension of an existing structure, used as a restaurant, bar and cabaret, with a canopy projecting into the setback area, off-street parking on the unbuilt portion of the lot for patrons and employees, and the erection of a business sign; and

WHEREAS, on July 15, 1975, the Board granted an application under Calendar No. 194-74-BZ to permit the erection of a one-story enlargement to the existing structure; and on January 18, 1983 amended such resolution to eliminate the cabaret use on the premises; and

WHEREAS, on January 27, 1993, the Board granted a variance application under Calendar No. 125-92-BZ to permit the change of use of the premises from restaurant to retail store; and on December 7, 1998, the Board approved, by a letter of substantial compliance, the conversion of a portion of the retail store back to a restaurant; and

WHEREAS, the term of this variance was limited to 15 years from the date of the grant, to expire on January 27, 2008; and

WHEREAS, on May 16, 2000, the Board denied an application under the subject calendar number, to increase the capacity of the restaurant to 280 persons, convert the retail sales area to a party room, and add outdoor table service for 40 persons; and

WHEREAS, the instant application seeks to convert the existing retail sales portion of the building to a private party room for 50 persons, thus increasing the total occupancy of the premises indoors from 124 to 174 (which includes the 50 person party room), and create an outdoor seating area with a maximum occupancy of 20 persons; and

WHEREAS, the Board notes that the instant application has a significantly lower requested occupancy than the previous application and that the new owner of the premises has taken additional precautions to abate the impact from the increase in indoor and outdoor occupancy; and

WHEREAS, Community Board #3, Staten Island-which denied the previous May 16, 2000 application -

THAT the parking lot shall be closed and locked when the restaurant is closed for business;

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

THAT any graffiti located on the premises shall be

recommends conditional approval of this application; and

WHEREAS, in response to the Community Board conditions and the concerns of the BSA, the owner has provided a sworn affidavit stating that attendant parking shall be provided Wednesday through Saturday in the evening hours and all day Sunday; that the valet service shall be instructed to fill up the parking lot first and park overflow cars on Hylan Boulevard; that the valet service shall also be instructed not to use Block Street and Spratt Avenue for parking or to shuttle cars from the parking lot; and that no deliveries shall be made to the Spratt Avenue entrance of the premises; and

WHEREAS, the date of expiration of the original variance and the grant herein is being modified so that the expiration date is now September 14, 2006.

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 conversion of the existing retail sales portion of the building to a private party room for 50 persons, the increase in total occupancy of the premises indoors from 124 to 174 persons, and the creation of an outdoor seating area with a maximum occupancy of 20 persons; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received August 31, 2004'- (1) sheets; and on further condition;

THAT notwithstanding any contrary term set forth in any resolution issued under the referenced calendar number or on any previously issued certificate of occupancy, the term of the variance, as granted on January 27, 1993 and as modified as of the date of this resolution, shall be amended and limited to two years from the date of this resolution, to expire on September 14, 2006;

THAT the maximum occupancy of the premises shall be limited to 174 persons indoor and 20 persons outdoor;

THAT any change in use, ownership or lessee shall require Board approval;

THAT all outdoor lighting at the premises shall be directed downward and away from all adjacent residential properties;

THAT the use of the outdoor dining area shall only occur from May 1st through October 31st, and the last table seating in the outdoor dining area shall be at 9 p.m. Sunday through Thursday, and 10 p.m. Friday and Saturday;

THAT the table arrangements in the outdoor dining area shall be limited to not more than eight patrons to one arrangement;

THAT there shall be no deliveries on Spratt Avenue;

THAT the valet parking service shall only use Hylan Boulevard and not Block Street or Spratt Avenue when parking and/or moving vehicles; removed within 48 hours;

THAT the above conditions and all relevant Board conditions from the previous Certificate of Occupancy (except for the 15 year term) shall appear on the new Certificate of Occupancy;

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THAT all signage shall conform to applicable zoning district requirements;

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 #500667192)

Adopted by the Board of Standards and Appeals, September 14, 2004.

62-99-BZ

APPLICANT - Jay A. Segal, Esq., for Starlex LLC, owner; Blissworld LLC, lessee.

SUBJECT - Application April 16, 2004 - reopening for an amendment to allow the expansion of existing physical culture establishment.

PREMISES AFFECTED - 541 Lexington Avenue, east side of Lexington Avenue between East 49th Street and East 50th Streets, Block 1350, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES - None.

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

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on August 10, 2004, after due notice by publication in the *City Record*, and then to September 14, 2004 for decision; and

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

WHEREAS, on February 1, 2000, the Board granted a special permit application pursuant to Z.R. §73-36, to permit in a C6-6 Zoning District, the use of a portion of the fourth floor of an existing hotel building as a physical culture establishment (“PCE”); and

WHEREAS, the record indicates that the PCE currently operates as a spa and gym managed by the hotel; and

WHEREAS, the instant application seeks to expand the PCE to the entire fourth floor of the hotel, primarily from the conversion of existing hotel guest rooms to spa treatment

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Mitchell Ross.

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

THE VOTE TO GRANT -

rooms, and the enlargement of locker and dressing areas; and

WHEREAS, this expansion will increase the total square footage of space occupied by the PCE from 8,000 sq. ft. to approximately 21,000 sq. ft.; and

WHEREAS, the applicant states that the changes to the PCE will not have any physical impact on the hotel beyond the fourth floor and will not be visible from outside the hotel; and

WHEREAS, Community Board #6, Manhattan recommends approval of this application, on condition that no part of the PCE expansion is visible from the street; and

WHEREAS, the applicant represents that no part of the PCE expansion will be visible from the outside the hotel.

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 expansion of the PCE to the entire fourth floor of the hotel; on condition that all work shall substantially conform to drawings as filed with this application, marked ‘Received August 25, 2004’-(1) sheet; and on further condition;

THAT all conditions from prior resolutions remain in effect and all conditions required to be placed on the certificate of occupancy shall remain;

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 # 103744414)

Adopted by the Board of Standards and Appeals, September 14, 2004.

4-00-BZ

APPLICANT - Agusta & Ross, 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 for a previously approved physical culture establishment to extend into the cellar.

PREMISES AFFECTED - 243 West 30th Street, north side of West 30th Street, 325' east of 8th Avenue, block 780, Lot 15, Borough of Manhattan.

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

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this

MINUTES

application on August 10, 2004, after due notice by publication in the *City Record*, and then to September 14, 2004 for decision; and

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

WHEREAS, on May 30, 2000, the Board granted a special permit application pursuant to Z.R. §73-36, to permit in an M1-5 zoning district, the use of the first floor and mezzanine level of an existing twelve-story building as a physical culture establishment ("PCE"); and

WHEREAS, the record indicates that the PCE was approved as a spa treatment facility with nine therapy rooms, with separate locker rooms for men and women; and

WHEREAS, the instant application seeks to legalize the conversion of 1,884 square feet of area formerly approved as PCE accessory storage and mechanical area to eight (8) all-purpose spa therapy rooms and one (1) all-purpose spa shower/water therapy room on the cellar level; and

WHEREAS, the applicant represents that there will be no increase in the total floor area of the PCE as previously approved by the Board.

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 conversion of 1,884 square feet of area formerly approved as PCE accessory storage and mechanical area to eight (8) all-purpose spa therapy rooms and one (1) all-purpose spa shower/water therapy room on the cellar level; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received September 2, 2004'-(3) sheets; and *on further condition*:

THAT all conditions from prior resolutions remain in effect and all conditions required to be placed on the certificate of occupancy shall remain;

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 # 103161659)

Adopted by the Board of Standards and Appeals, September 14, 2004.

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 -

114-02-BZ

APPLICANT - Land Planning and Engineering Consultants, P.C., for Gerardo Campitiello, owner.

SUBJECT - Application June 2, 2004 - reopening for an amendment to the resolution to amend the existing resolution to permit the maintenance of the existing building during the construction of the new cellar and one story professional building, which is to replace the existing building.

PREMISES AFFECTED - 2493 Richmond Road, northwest side of Richmond Road, southwest of Odin Street, Block 947, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO GRANT -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, September 14, 2004.

371-29-BZ

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233rd Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

COMMUNITY BOARD #13BX

APPEARANCES -

For Applicant: Larry Atah.

ACTION OF THE BOARD - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

519-57-BZ

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

For Applicant: Carl A. Sulfaro.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele1

ACTION OF THE BOARD - Laid over to September

28, 2004, at 10 A.M., for decision, hearing closed.

MINUTES

67-79-BZ

APPLICANT - Sheldon Lobel, P.C., for 80 Varick Street Group L.P., owner.

SUBJECT - Application February 9, 2004 - reopening for an amendment to the resolution to permit residential use on the second and third floors of the premises.

PREMISES AFFECTED - 80 Varick Street, 4 Grand Street, northeast corner, Block 477, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Sheldon Lobel, Eliza B. Hwu and Hollister Lowe.

For Opposition: Darlene Lutz, John Stuart and Catherine.

ACTION OF THE BOARD - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

585-91-BZ

APPLICANT - Tarek M. Zeid, for Luis Mejia, owner.

SUBJECT - Application December 10, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 30, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 222-44 Braddock Avenue, Braddock Avenue between Winchester Boulevard and 222nd Street, Block 10740, Lot 12, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

173-94-BZ

APPLICANT - Board of Standards and Appeals

OWNER OF PREMISES: Richard Shelala.

SUBJECT - Application reopening for compliance to the resolution.

PREMISES AFFECTED - 165-10 144th Road, Block 13271, Lot 17, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

WHEREAS, a public hearing was scheduled on this application on July 13, 2004 after due notice by publication in the *City Record*, which was postponed to August 10, 2004, and then to decision on September 14, 2004; and

WHEREAS, by letter dated March 10, 2003 the Fire Department states that it has reviewed the above project and has no objections; and

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

Resolved, that the decision of the Queens Borough

ACTION OF THE BOARD - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

18-04-A

APPLICANT - Robert Miller, for Breezy Point Co-op, Inc., owner; Mr. Ronald Kirsche, lessee.

SUBJECT - Application February 4, 2004 - Proposed addition of a second floor, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 5 of the General City Law.

PREMISES AFFECTED - 10 Irving Walk, west side, 105.69' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated January 30, 2004 acting on Department of Buildings ALT 1. Application No. 401746063, reads in pertinent part:

“A1- The street giving access to the existing dwelling to be altered is not duly placed on the Official map of the City of New York, therefore

A. A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law

B. Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York”; and

Commissioner, dated January 30, 2004 acting on Department of Buildings ALT 1. Application No. 401746063 is modified under the power vested in the Board by 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 July 26, 2004” - (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

MINUTES

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

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

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

21-04-A

APPLICANT - Zygmunt Staszewski, P.E., for Breezy Point Co-op, Inc., owner; James O'Brien, lessee.

SUBJECT - Application February 9, 2004 - Proposed enlargement of an existing one family dwelling, located partially within the bed of a mapped street, and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law. PREMISES AFFECTED - 634 Bayside Avenue, eastside, 267.40' south of Bayside Drive, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 4, 2004 and amended on August 2, 2004 acting on Department of Buildings ALT 1. Application No. 401755114, reads in pertinent part:

Resolved, that the decision of the Queens Borough Commissioner, dated February 4, 2004 and amended on August 5, 2004 acting on Department of Buildings ALT 1. Application No. 401755114 is modified under the power vested in the Board by Section 35/36 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 July 26, 2004"- (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*:

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

"A1- The proposed enlargement is on a site where the building and lot are located partially in the bed of a mapped street therefore no permit or Certificate of Occupancy may be issued as per Article 3, Sect. 35 of the General City Law .

A2- The street giving access to the existing dwelling to be altered is not duly placed on the Official map of the City of New York, therefore:

A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.

Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A3- The proposed upgraded private disposal system is located in the bed of a service lane and contrary to the Department of Buildings policy."; and

WHEREAS, a public hearing was held on this application on August 10, 2004, after due notice by publication in the *City Record*, and then to decision on September 14, 2004; and

WHEREAS, by letter dated February 24, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 18, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

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

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

50-04-A thru 52-04-A

APPLICANT - Joseph P. Morsellino, for Zankera, LLC, contract vendee.

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SUBJECT - Application February 25, 2004 - Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

101-20 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 22, Borough of Queens.
Applic.#401770570.

101-22 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 23, Borough of Queens.
Applic.#401770589.

101-24 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 24, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner dated February 3, 2004 acting on Department of Buildings N.B. Application Nos. 401770570, 401770589, and 401770561, reads in pertinent part:

“Application herewith filed to obtain objection and denial to the Board of Standards and Appeals to erect three dwellings partly within the a mapped street”; and

WHEREAS, a public hearing was held on this application on August 10, 2004 after due notice by publication in the *City Record*, and then to decision on September 14, 2004; and

WHEREAS, Community Board 3, Queens, recommends approval of this application, with the condition that the area in front of the proposed dwellings be landscaped; and

WHEREAS, the applicant agreed at public hearing to landscape

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

131-04-A

APPLICANT - New York City Department of Buildings.

OWNER OF RECORD - Douglas Ballinger.

SUBJECT - Application March 12, 2004 - Application pursuant to NYC Charter §§645(3)(e) and 666.6(a), to revoke Certificate of Occupancy No. 116501 on the basis that a lawfully non-conforming eating and drinking establishment (Use Group 6) in an R8 zoning district was discontinued for a period greater than two years and

the area in front of the proposed dwellings;

WHEREAS, by letter dated May 14, 2004, the Department of Environmental Protection states that it has reviewed the above project, and has no objections; and

WHEREAS, by letter dated June 24, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated March 23, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

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

Resolved, that the decision of the Queens Borough Commissioner, dated February 3, 2004 acting on Department of Buildings N.B. Application Nos. 401770570, 401770589, and 401770561 is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, *on condition* that construction shall substantially conform to the drawing filed with the application marked, “Received June 14, 2004” - (1) sheet; and that the proposal comply with all applicable R6 zoning district requirements, and that all applicable laws, rules, and regulations shall be complied with; and *on further condition*

THAT prior to issuance of a certificate of occupancy to any of the referenced premises, an affidavit from the owner or letter from an appropriate City agency verifying that there are no public utilities in the mapped street other those indicated on the BSA approved plans shall be submitted to the Department of Buildings;

THAT applicant shall forward a copy of a plan showing landscaping to the community board prior to issuance of a building permit, with a copy to 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 the approved plans shall be considered approved only for the portions related to the specific relief granted; and must therefore be occupied as a conforming residential use as per Z.R. §52-61.

PREMISES AFFECTED - 217 West 20th Street, between Seventh and Eighth Avenues, Block 770, Lot 30, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Lisa Orrantia, Department of Buildings.

ACTION OF THE BOARD - Application granted.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated March 12, 2004, reads:

“Application to revoke Certificate of Occupancy

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(the "CO") No. 116501 pursuant to NY City Charter 645(b)(3) (e) and 666.6(a) on the basis that the CO authorized the Premises to be occupied as a use group 6 use, in particular a non-conforming eating and drinking establishment. This non-conforming use was discontinued for a period greater than two years. Pursuant to ZR Section 52-61, the Premises must now only be use for a conforming residential use. Therefore, as a matter of law, the CO must be revoked."; and

WHEREAS, a public hearing was held on this application on July 20, 2004, after due notice by publication in the *City Record*, with a continued hearing on August 10, 2004 and then to decision on September 14, 2004; and

WHEREAS, the Department of Buildings ("DOB") seeks to revoke Certificate of Occupancy Number 116501, issued to 217 West 20th Street in Manhattan, on the basis that the lawful non-conforming commercial use of the premises was discontinued for a continuous period of greater than two years; and

WHEREAS, the subject premises is located in an R8 zoning district, and is improved upon with a one-story building; and

WHEREAS, the record indicates that the current Certificate of Occupancy ("CO"), issued on February 23, 1999, permits a Use Group 6 Eating and Drinking Establishment at the first floor level; and

WHEREAS, DOB states that the Use Group 6 Eating and Drinking Establishment, which did business as the "Fresh Organic Coffee Lounge" (hereinafter, the "Lounge"), was a lawful non-conforming use; and

WHEREAS, Z.R. §52-61 provides, in pertinent part, "If, for a continuous period of two years . . . the active operation of substantially all of the non-conforming uses in any building . . . is discontinued, such . . . building . . . shall thereafter be

WHEREAS, no submissions were made or testimony given that contradicted the evidence provided by DOB; and

WHEREAS, the Board has reviewed the submitted evidence and finds it sufficient and credible; and

WHEREAS, accordingly, he Board finds that for a period of at least two years, the active operation of the lawful non-conforming use of the subject premises as a Use Group 6 Eating and Drinking Establishment had been substantially discontinued; and

WHEREAS, the Board further finds that the premises must hereafter be used only for conforming uses currently permitted in the underlying zoning district, notwithstanding any prior certificates of occupancy, including Certificate of Occupancy No. 20950.

Therefore, it is Resolved, that the application brought by the Commissioner of the Department of Buildings, dated March 12, 2004, seeking revocation of Certificate of Occupancy No. 116501, is hereby granted.

Adopted by the Board of Standards and Appeals, September 14, 2004.

used only for a conforming use."; and

WHEREAS, DOB has provided evidence of total discontinuance of the Lounge for a period of greater than two years, starting from May 24, 2000; and

WHEREAS, specifically, DOB has provided: (1) an Environmental Health Services Inspection Report - Notice of Violation, dated May 2, 2000, which states "Establishment observed closed - out of business. Gates down, windows boarded up."; (2) a printout from the New York City Department of Health's Licensing Center, dated November 25, 2003, which states that a Food Service Establishment Permit (#H25-1000838) issued to the Lounge expired on December 11, 1999 and was not renewed and that the Lounge went out of business on May 24, 2000; (3) a notarized affidavit from a U.S. Postal Carrier, which states the carrier observed no commercial activity for a period of three years; and (4) various other affidavits from neighbors, which state that the Lounge had been out of business for at least two years; and

WHEREAS, based upon the submitted evidence, DOB concludes that the Lounge went out of business on May 24, 2000, and no commercial activity of any type has taken place at the subject premises since that date; and

WHEREAS, DOB states that any further use of the premises for commercial purposes would be invalid as a matter of law, and that the subject building may now only be used for uses that are permitted in an R8 zoning district; and

WHEREAS, DOB concludes that the CO, which permits on the first floor Use Group 6 Eating and Drinking Establishment, must be revoked; and

140-04-A

APPLICANT - Stuart A. Klein, Esq.

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

APPEARANCES - None.

ACTION OF THE BOARD - Appeal denied.

THE VOTE TO GRANT -

Affirmative:.....0

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

THE RESOLUTION -

WHEREAS, the instant appeal comes before the Board

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in response to a final determination, dated March 18, 2004, issued by the Brooklyn Borough Commissioner of the New York City Department of Buildings (“DOB”) to counsel for certain individuals and a community organization (hereinafter, the “appellant”), who had requested revocation of a DOB alteration permit (the “Permit”) allowing minor work at an existing building in Brooklyn in order to accommodate a domestic abuse survivors shelter (the “Shelter”); and

WHEREAS, said DOB determination states, in part:

“This letter is written in response to your November 25, 2003 correspondence in which you request that the Department revoke the referenced permit. In your correspondence, you refer to statements made by the permit applicant’s attorney . . . during recent litigation brought against the applicant and the Department. Your correspondence argues that [the permit applicant’s attorney’s] statements to the court are at odds with the application and current certificate of occupancy (“CO”) and that the discrepancy is a basis for revocation of the permit. Your claim does not present the Department with cause to revoke the permit pursuant to authority set forth at New York City Administrative Code (“AC”) § 27-197. First, you do not allege that approved and permitted application documents fail to comply with the AC, New York City Zoning Resolution (“ZR”) or other applicable law. According to the Department’s review, the application’s proposed use and occupancy of the premises conform with The two examples you offer in support of your argument are not persuasive. The Department may properly issue letters of intent to revoke a permit upon receipt of a challenge to an application that proposes a use that contravenes a provision of the ZR, as in your example of a non-conforming use that was discontinued for a continuous period of more than two years, or to an application lacking support for classification within a certain use group, as in your example of an alleged school dormitory Use Group 3 community facility. Those examples regard defects in the application itself, and are not based on a claim that a future use will be contrary to law, permit or CO. Therefore, your request does not set forth a sufficient basis for revocation of the permit.”; and

WHEREAS, appellant, DOB, and Shelter counsel agreed that in order to keep the actual address of the Shelter facility confidential, the hearings on the instant matter would be closed and the record would not be made available to anyone aside from the parties to the proceeding; and

WHEREAS, the subject premises is located within an R4 zoning district, and is occupied by a Class A four family, three-story with basement and cellar multiple dwelling (the “Existing Building”); and

the CO that allows four families to occupy the building. Contrary to the claim in your January 12, 2004 letter to the Department, the application PW-1 form does not propose a change in the classification of the premises from occupancy group J-2 to J-1.

Second, a comparison between the application and Ms. Hadberg’s statements to the court does not establish a false statement or misrepresentation as to a material fact in the application. According to the portion of the court transcript enclosed with your January 12th letter, [the permit applicant’s attorney] stated that six to eight families and a maximum of 18 people, with just over four people per floor, will occupy the premises. While these statements present an ambiguity as to whether future occupancy of the premises will conform to the limitations of the CO and applicable law, the application documents and plans do not contain any indication that the occupancy resulting from the permitted work will be unlawful. The application proposes a lawful occupancy of the premises consistent with the four-family occupancy allowed by the CO. The ambiguity presented by [the permit applicant’s attorney’s] statements leaves the Department without an adequate basis to find that the applicant made a knowingly false statement in the application in violation of AC §26-124.

WHEREAS, pursuant to Multiple Dwelling Law (“MDL”) §4(8), a Class A multiple dwelling is considered to be a dwelling occupied for permanent residential purposes; and

WHEREAS, a Class A Multiple Dwelling is analogous to a dwelling classified in Occupancy Group J-2, as defined by Section 27-265 of the City’s Building Code (Titles 26 and 27 of the Administrative Code of the City of New York); and

WHEREAS, Building Code §27-265 provides that Occupancy Group J-2 “[s]hall include buildings and spaces that are primarily occupied for the shelter and sleeping accommodation of individuals on a month-to-month or longer term basis”; and

WHEREAS, the certificate of occupancy for the Existing Building (the “CO”) permits “ordinary use” in the cellar, and one family each on the first, second and third floors and in the basement; and

WHEREAS, the application for the Permit, as filed with DOB, proposed no change in occupancy, use or egress in the Existing Building; and

WHEREAS, the Permit application sought DOB authorization to make minor revisions to the internal layout of the Existing Building, install new fireproof self-closing doors, replace an existing fire escape, and replace 20 percent of damaged joists in the basement; and

WHEREAS, subsequent to issuance of the Permit,

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certain parties, some of whom are the appellants in the instant matter, petitioned for injunctive relief in the Supreme Court of the State of New York, Kings County, seeking to enjoin use and occupancy of the Existing Building by the Shelter and performance of the construction work pursuant to the Permit; and

WHEREAS, the court dismissed the petition because administrative remedies had not been exhausted; and

WHEREAS, appellant then filed the instant appeal; and

WHEREAS, appellant makes three primary arguments: (1) that statements made by counsel to the Shelter in the court proceeding (hereinafter “Shelter Litigation counsel”) and by other Shelter representatives allegedly indicated an intent on the part of the Shelter to occupy the Existing Building in a manner contrary to the CO; (2) the proposal to use the Existing Building as a shelter violates use provisions of the Zoning Resolution; and (3) the proposal violates Local Law 10 of 1999, which concerns the provision of automatic sprinkler systems; and

WHEREAS, appellant contends that based upon the above arguments, DOB should have revoked the Permit; and

WHEREAS, as presented by appellant, the first argument has two components; specifically, that the statements by Shelter representatives indicated: (1) that the number of families proposed to occupy the Shelter will exceed that permitted by the CO; and (2) that the Shelter will be occupied on a temporary, not permanent, basis, which is

WHEREAS, the architect who filed the Permit application with DOB on behalf of the Shelter operators (hereinafter, the “Shelter architect”) testified that she discussed the legal definitions of the term “family” with the Shelter operators and that the operational program as proposed for the Shelter will comply with such definitions; and

WHEREAS, the Shelter architect submitted to the Board a memorandum that confirms her prior statements that the permit application proposed a use and occupancy of the Existing Building that is fully consistent with the CO and applicable laws; and

WHEREAS, Shelter counsel states that there was never an intent to occupy the Existing Building in violation of the CO or any applicable law; and

WHEREAS, Shelter Litigation counsel testified that when she made the statement about “six to eight families” during the court proceeding, she meant a situation where there was a mother and child living with a mother and either a single child or two children on one floor (i.e. two genetic families per floor living as one legal family), and that the Shelter operator was aware of the legal definition of family; and

WHEREAS, the Board finds this explanation credible and sufficient, in light of the applicable laws; and

WHEREAS, the Board notes that the license for the Shelter issued by the New York State Office of Children and Family Services (“NYSOCF”), dated April 7, 2004, indicates

not allowed by the CO; and

WHEREAS, as to the first component, appellant cites to the following statements, which were made on the record in the court proceeding by Shelter Litigation counsel: “and the idea is that there will be six to eight families in total among the four units” and “[the] definition of family under zoning rules is not more than four unrelated persons is (sic) occupying a dwelling living together and maintaining a common household”; and

WHEREAS, pursuant to MDL §4(5), the term “family” is defined as: “[E]ither a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintained a common household, with not more than four boarders, roomers, or lodgers”; and

WHEREAS, pursuant to Building Code §27-232, the term “family” is defined as: “A single individual; or two or more individuals related by blood or marriage or who are parties to a domestic partnership, and living together and maintaining a common household, with not more than four boarders, roomers or lodgers; or a group of not more than four individuals, not necessarily related by blood, marriage or because they are parties to a domestic partnership, and maintaining a common household”; and

that the facility is to have 20 beds total, over 4 habitable floors, which would allow the type of situation discussed by Shelter Litigation counsel; and

WHEREAS, the Board finds that six to eight genetic families could reside in a four-family multiple dwelling such as the Existing Building and nevertheless meet the legal definition of the term “family” under the applicable laws, given that the laws allow for families to be comprised of unrelated individuals in certain configurations, or one set of related individuals residing with another set of related individuals; and

WHEREAS, the Board also finds that the DOB-approved plans show a configuration on each self-contained habitable floor whereby occupants would share a kitchenette and bathroom, which is indicative of a layout designed for maintenance of a common household; and

WHEREAS, the Board further finds that appellant’s assertion that the statements of the Shelter Litigation counsel indicate an intent on the part of the Shelter operator to occupy the Existing Building contrary to the CO to be mere speculation; and

WHEREAS, DOB states that, upon review, the statements of the Shelter Litigation counsel in the court proceeding do nothing more than raise an ambiguity as to how the Existing Building may be operated in the future when occupied by the Shelter; and

WHEREAS, DOB also states that its review of the Permit application revealed no indication that the occupancy

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resulting from the proposed work would be inconsistent with the CO or any applicable law, in that the application did not, on its face, propose any change in the number of families that will occupy the existing building; and

WHEREAS, DOB considered the statements of the Shelter Litigation counsel and compared them to the representations made by the Shelter architect in the Permit application and, because the Shelter Litigations counsel statements were deemed ambiguous at best, concluded that the application did not contain knowingly or unintentionally false statements, which, pursuant to Building Code §26-124, would subject the Shelter architect to misdemeanor charges and civil penalty; and

WHEREAS, DOB further determined that the statements of the Shelter Litigation counsel did not warrant revocation under the permit pursuant to Building Code §27-197; and

WHEREAS, DOB states that Building Code §27-197 allows DOB to revoke permits and application approvals under three general circumstances: 1) forgery of an owner's or applicant's signature; 2) a substantive violation contained in an application that is certified by an architect or engineer as complying with all applicable law; and 3) where substantively different applications are concurrently filed with the Department and another City agency that are purportedly for the same work; and

WHEREAS, DOB argues that the facts as presented by

WHEREAS, Building Code §27-264 provides that Occupancy Group J-1 "[s]hall include buildings and spaces that are primarily occupied for the shelter and sleeping accommodation of individuals on a day-to-day or week-to-week basis"; and

WHEREAS, appellant argues that such a change in occupancy is contrary to the CO, and therefore violates Building Code §27-217, which provides that no change shall be made in the use or occupancy of an existing building that is inconsistent with the last issued certificate of occupancy for such building unless a new certificate of occupancy is issued by DOB; and

WHEREAS, DOB states that the Permit application contained no indication that the duration of occupancy at the premises would be day-to-day or week-to-week; and

WHEREAS, DOB also states that the web-site representation fails to establish a J-1 occupancy of the premises, as the word "temporary" could encompass month-to-month accommodation, which is Occupancy Group J-2; and

WHEREAS, the Board notes that there is no evidence in the record that the Shelter operator was using the word "temporary" in its web-site description of the Shelter as a term of art, or in any way intended to bind itself through this representation to providing stays of only one to two weeks duration; and

WHEREAS, Shelter counsel states that the length of occupancy by the typical Shelter resident will likely be

appellant do not fall under any of these three categories, and that as a result, it is without authority to revoke the permit; and

WHEREAS, the Board agrees that DOB did not have the statutory authority to revoke the Permit on the basis of the Shelter Litigation counsel's statements in the court proceeding; and

WHEREAS, the second component of appellant's first argument is that the Existing Building will be used for temporary occupancy by the Shelter, which would be contrary to the CO; and

WHEREAS, in support of this contention, appellant claims that Shelter officials made representations to members of the immediate community that it intended to provide only temporary, emergency shelter to the proposed occupants, with length of stays averaging one to two weeks; and

WHEREAS, appellant also cites screen print-outs from a web-site run by the Shelter operator, submitted into the record, which state that the Shelter offers a "temporary" place to stay; and

WHEREAS, appellant maintains that these representations indicate that the Shelter sought to occupy the existing building as Occupancy Group J-1; and

comparable to that of other shelters run by the Shelter operator, in the range of approximately 130 days (or about four months); and

WHEREAS, in support of this statement, in a submission dated July 14, 2004, Shelter counsel submitted materials published by the Shelter operator concerning two other comparable shelters, and the average length of stay for each; and

WHEREAS, the Shelter architect testified that in conversations she had with the Shelter operator and she was informed that the typical length of stay would be for a month or possibly longer; and

WHEREAS, Shelter counsel represents that the Shelter operator chose the particular residential neighborhood in question because it is safe and appropriate for longer-term stays, given that it is located in a good school district and provides residents with access to mass transportation; and

WHEREAS, based upon the above, the Board finds that there is no indication in the record that the Existing Building will be primarily occupied for the shelter and sleeping accommodation of individuals on a day-to-day or week-to-week basis; and

WHEREAS, instead, the Board finds that the evidence supports the Shelter's assertion that the typical intended length of stay for an occupant is one month or more; and

WHEREAS, therefore, the Board disagrees with appellant's contention that the Existing Building will be

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used primarily for temporary occupancy; and

WHEREAS, accordingly, the Board finds that appellant's first argument - that the Existing Building will be occupied by more families and for a period of time than what it is allowed by the CO - is without merit, and does not support the claim that the Permit must be revoked by DOB; and

WHEREAS, appellant's second argument is that the Shelter proposal, because it actually contemplates temporary, and not permanent, occupancy, should have been classified in Use Group 5, "Transient Hotel", pursuant to Z.R. §32-14; and

WHEREAS, because, as noted above, the Board finds that the occupancy of the existing building by Shelter clients will not be on a primarily temporary basis, this argument fails; and

WHEREAS, moreover, the Board notes that other similar shelters are located as-of-right in residential districts without commercial overlays, as evidenced by data presented by Shelter counsel (Shelter counsel submission, June 9, 2004, Exhibit G "Shelter-Type Establishments Located Within Residential Zoning Districts"); and

WHEREAS, Shelter counsel states, and the Board agrees, that the Shelter does not have twenty-four hour desk service, and therefore does not meet the definition of

WHEREAS, Building Code §27-215 provides, in part: "[N]o building hereafter altered so as to change from one occupancy group to another, either in whole or in part, or so as to affect any existing means of egress, or so as to increase the number of habitable rooms in the building, and no building hereafter altered for which a certificate of occupancy has not theretofore been issued, shall be occupied or used unless and until a certificate of occupancy shall have been issued certifying that the alteration work for which the permit was issued has been completed substantially in accordance with the approved plans and the provisions of this code and other applicable laws and regulations."; and

WHEREAS, applicant argues that plans submitted with the Permit application show that the number of habitable rooms increased in the Existing Building; and

WHEREAS, the Board finds that this argument was also not the subject of a final DOB determination and, therefore, it is not properly before the Board; and

WHEREAS, during the course of the public hearing on the instant appeal, appellant asked the Board to subpoena New York City Fire Department Lieutenant Thomas Coleman, who had inspected the premises and issued a report on December 22, 2003, pursuant to normal procedures, in order for him to provide testimony about his observations and conclusions; and

WHEREAS, FDNY Deputy Chief Inspector Anthony Scaduto testified before the Board that that senior officials of the FDNY's Bureau of Fire Prevention ("BFP") did not concur with the Lieutenant's recommendation, though the

"Transient Hotel" as set forth in Z.R. §12-10, which requires that such desk service be provided; and

WHEREAS, the Board notes that the appellant did not obtain a final determination from the DOB as to the third argument, that occupancy of the Existing Building by the Shelter violates Building Code §27-954(t) (which codifies Local Law 10 of 1999); and

WHEREAS, accordingly, the issue is not properly before the Board; and

WHEREAS, in sum, the Board finds appellant's arguments in response to the final DOB determination dated March 18, 2004 unpersuasive, and, on this basis, concludes that denial of the instant appeal is warranted; and

WHEREAS, appellant's initial submission to the Board presented other arguments - namely, that the Existing Building is not suitable to meet the programmatic needs of the Shelter and that the Board must revoke the CO because failure to do so will expose the City to tort liability - which the Board finds irrelevant to the instant appeal, and for which appellant did not obtain a final determination from DOB; and

WHEREAS, at hearing, appellant raised an argument concerning Building Code §27-215; and

inspection observations were taken into account; and

WHEREAS, Inspector Scaduto testified that the official FDNY position was reflected in a letter from the BFP, dated February 23, 2004, which states that "the requirements of all laws, regulations, etc. under the jurisdiction of the Fire Department have been complied with."; and

WHEREAS, Inspector Scaduto also testified that the initial inspection by the Lieutenant is the first step in a long-term process, and does not constitute a final FDNY determination; and

WHEREAS, Inspector Scaduto further testified that the experts in the BFP review the initial inspection report, but make a final determination on other considerations beyond what is contained in the report; and

WHEREAS, the Board notes that it is not uncommon for inspector level recommendations to be later overruled or modified by senior officials within an agency, and observes that the evaluation of the Lieutenant's observations and recommendations by the BFP was per procedure; and

WHEREAS, in a letter dated June 30, 2004, Chair Srinivasan wrote to appellant and stated that the Board would not issue a subpoena to Lieutenant Coleman because his observations as set forth in the December 22, 2003 inspection report were already in the record, and any testimony he provided as to his conclusions would not reflect the official FDNY position, which was set forth in the February 23, 2004 letter from the BFP; and

WHEREAS, appellant also requested that the Board issue a subpoena duces tecum to the Shelter operator in order to obtain license application materials filed with

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NYSOFS on the basis that they would indicate an intent to occupy the existing building in a manner contrary to the CO; and

WHEREAS, the Board had before it no evidence whatsoever that the materials contained such information, and, more importantly, the Board has no Charter authority to subpoena documents; and

WHEREAS, accordingly, the Board, in its June 30 letter, informed appellant that it could not issue a subpoena duces tecum to NYSOFS; and

WHEREAS, the Board then granted leave to the appellant to issue its own subpoena duces tecum to the Shelter operator, and the Board set a delayed decision date so that the subpoena issue could be resolved prior to a decision; and

WHEREAS, appellant subsequently submitted a letter to the Board, dated September 8, 2004, stating that the Shelter operator did not respond to the subpoena duces tecum, on the basis that the application materials were shielded under law; and

WHEREAS, appellant also stated in this letter that the Board was not empowered to decide the efficacy of the subpoena or the Shelter operator's objection thereto, and that appellant therefore had no objection to the Board rendering its determination; and

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

155-04-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc, owner; Richard & Dawn Hennessy, lessees.

SUBJECT - Application April 12, 2004 - Proposed enlargement of the first floor, and the addition of a new second floor, 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 - 4 Marion Walk, southwest corner of West End Avenue, Block 16350, Part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14

APPEARANCES -

For Applicant: John Ronan.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated March 22, 2004 acting on Department of Buildings ALT 1. Application No. 401841316, reads in

WHEREAS, also during the course of the public hearing, appellant asked the Board to conduct a site visit of the Existing Building; and

WHEREAS, the Board was aware that DOB and FDNY had inspected the site numerous times, and that neither agency observed conditions that were contrary to the CO; and

WHEREAS, the Board notes that the basis of the instant appeal was that the Permit application contained incorrect information as evidenced by statements made by Shelter Litigation counsel at the court proceeding, and that a site inspection would not assist the Board in determining the validity of this claim; and

WHEREAS, therefore, the Board declined to conduct a site inspection; and

WHEREAS, the Board observes that if appellant is concerned that there may be a violation of an applicable law at the Existing Building, including occupancy contrary to the CO, then a complaint and inspection request may be made to DOB; and

WHEREAS, based upon the foregoing, the Board finds that there is no basis for revocation of the Permit by DOB.

pertinent part:

"Proposal to enlarge the existing first floor and construct a new second floor on a home which lies within an R-4 district but does not front on a mapped street (Marion Walk) is contrary to Article 3, Section 36 (2) of the General City Law and contrary to section 27-291 of the NYC Building Code and must therefore be referred to the Board of Standards and Appeals for approval"; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in the *City Record*, and then to decision on September 14, 2004; and

WHEREAS, by letter dated March 10, 2003, the Fire Department states that it has reviewed the above project and has no objections; and

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

Resolved, that the decision of the Queens Borough Commissioner, dated January 30, 2004 acting on Department of Buildings ALT 1. Application No. 401841316 is modified under the power vested in the Board by 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 August 19, 2004"-(1) sheet; and that the proposal comply with all applicable R4 zoning district requirements and that all applicable laws, rules, and regulations shall be complied with, and *on further condition*:

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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; and

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

68-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 96 Driggs Street, Block 5275, Tentative Lot 10, Borough of Staten Island.

149-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; John & Mary Mathis, owners.

SUBJECT - Application April 6, 2004 - Proposed alteration and enlargement of an existing one family dwelling and upgrade private disposal system not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 14 Gotham Walk, west side, 167.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

171-04-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Cooperative, Inc, owner; William Schlageter, lessee.

SUBJECT - Application April 26, 2004 - Proposed alteration upgrade of private disposal system of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 42 Olive Walk, west side, 99.25' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Steven Barshou.

ACTION OF THE BOARD - Laid over to October 5, 2004, at 10 A.M., for continued hearing.

69-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 23 Lillian Place, Block 5275, Tentative Lot 11, Borough of Staten Island.

COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Steven Barshou.

ACTION OF THE BOARD - Laid over to October 5, 2004, at 10 A.M., for continued hearing.

COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Michael Harley.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

244-04-A

APPLICANT - Sheldon Lobel, P.C., for Mr. Alfonso Angelisi, owner.

SUBJECT - Application June 30, 2004 - Proposed two family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 44 Pennyfield Avenue, northwest corner of Alan Place, Block 5529, Lots 417 and 418, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES -

For Applicant: Jon Popin.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 28, 2004, at 10 A.M., for decision, hearing closed.

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248-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Michael & Jessica Ball, owners.

SUBJECT - Application July 13, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legal mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 13 Courtney Lane, north side, 107.43' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Caliendo and Commissioner Chin.....3

Negative:.....0

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

APPEARANCES -

For Applicant: Michael Harley.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Caliendo and Commissioner Chin.....3

Negative:.....0

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

ACTION OF THE BOARD - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

243-04-A

APPLICANT - Sion Misrahi, for Sion Misrahi, President, owner.

SUBJECT - Application June 30, 2004 - An appeal challenging the Department of Buildings' decision dated June 7, 2004, in which the department refused to issue a vacate order regarding subject premises, to facilitate needed repairs without endangering the occupants thereof.

PREMISES AFFECTED - 11 Essex Street, between Canal and Hester Streets, Block 297, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Irving Minkin, Sion Misrahi, Anthony Czabo and David Brody.

For Opposition: Christopher Prehp

For Administration: Lisa Orrantia, Department of Buildings.

ACTION OF THE BOARD - Laid over to October 26, 2004, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 12:15 P.M.

ACTION OF THE BOARD - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

251-04-A

APPLICANT - Zygmunt Staszewski for Breezy Point Cooperative, Inc., owner; Gary Wilson, lessee.

SUBJECT - Application July 15, 2004 - Proposed alteration and extension 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, also the upgrading of the existing septic system that is in the bed of the service road which is contrary to the Department of Buildings' Policy.

PREMISES AFFECTED -14 Thetford Lane, southeast corner of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14

REGULAR MEETING

TUESDAY AFTERNOON, SEPTEMBER 14, 2004

2:00 P.M.

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

ZONING CALENDAR

341-03-BZ

CEQR #04-BSA-073A

APPLICANT - Sheldon Lobel, P.C., for Chelsea Ventura, LLC, owner.

SUBJECT - Application November 6, 2003 - under Z.R. §72-21 to permit the proposed construction of a residential building (Use Group 2), which creates non-compliances with respect to Floor Area Ratio (a total FAR of 4.13 - including residential floor area in the cellar - where 4.0 is permitted), number of dwelling units (32 dwelling units where 27 are permitted), and rear yard equivalent (a rear yard of 57 feet

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where 60 is required), contrary to Z.R. §§23-145, 23-22 and 23-533.

PREMISES AFFECTED - 343 West 16th Street, between Eighth and Ninth Avenues, Block 740, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

- “1. Proposed construction of a residential building on a merged zoning lot with an existing multiple dwelling resulting in a combined FAR exceeding 4.0 creates a non-compliance, contrary to Section 23-145, Zoning Resolution.
2. Proposed total number of dwelling units on the merged zoning lot of the number in the existing building and the number in the proposed new building exceeds the number authorized by Section 23-22, Zoning Resolution, creating a non-compliance.
3. Proposed construction of a residential building on a merged zoning lot with an existing building resulting in a rear yard equivalent less than 60 ft. in depth is contrary to Section 23-533, Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on April 27, 2004 after due notice by publication in the *City Record*, with continued hearings on June 8, 2004, July 13, 2004 and August 10, 2004, and then to decision on September 14, 2004; and

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

WHEREAS, Community Board 4, Manhattan, stated that it had no objection to the proposed variance and recommended its approval, with the provisos that the Board carefully evaluate the requested FAR and rear yard equivalent waivers; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a residential building (Use Group 2) in an R8B zoning district, which creates non-compliances with respect to Floor Area Ratio, number of dwelling units, and rear yard equivalent, contrary to Z.R. §§23-145, 23-22 and 23-533; and

WHEREAS, the subject premises is comprised of two tax lots (Lots 12 and 54) situated between Eighth and Ninth Avenues and West 16th and 17th Streets, which are proposed to be merged; and

WHEREAS, the applicant represents that Lot 12 is a

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 15, 2003, acting on Department of Buildings Application No. 103420647, reads:

small, shallow and vacant lot, with a varying depth from 37'9" to 40'1", with a total area of 974 sq. ft.; and

WHEREAS, the applicant represents that Lot 54 is a larger lot, currently improved upon with an existing residential building with 24 dwelling units and a rear yard of over 70 feet; and

WHEREAS, once merged, the new lot will have a total lot area of 4559.7 sq. ft.; and

WHEREAS, the proposed new building will be erected on Lot 12, and will be six stories high (60 feet total height), contain eight dwelling units and have a Floor Area Ratio ("FAR") of 4.13; and

WHEREAS, this application, if approved, would lead to the following non-compliances on the merged lot: a total FAR of 4.13 (4.0 is permitted); 32 dwelling units (27 are permitted); and a rear yard equivalent of 57 feet (60 is required); and

WHEREAS, the applicant originally proposed a six-story plus penthouse building, with a FAR of 4.21; and

WHEREAS, the applicant, in response to Board concerns, reduced the FAR to 4.13, and eliminated the penthouse; and

WHEREAS, the applicant represents that the following are unique physical conditions existing on Lot 12, which create practical difficulties and unnecessary hardship in complying with underlying district regulations: (1) Lot 12 has a maximum depth of only 40 feet and an area of only 974 sq. ft.; (2) the shallow depth of Lot 12 permits only one efficiency apartment on each floor, due to Building Code requirements related to elevators and handicapped accessibility; and (3) Lot 12 is the only undeveloped lot on the block; and

WHEREAS, the applicant represents that subsequent to a merger with Lot 54, development on Lot 12 becomes possible, although the depth of, and the number of apartments in, the existing building on Lot 54 leads to the need for dwelling unit, FAR and rear yard equivalent waivers; and

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

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and

WHEREAS, the applicant states that because of the amount of dwelling units in the building on Lot 54, construction of a complying building on Lot 12 would not allow an amount of dwelling units sufficient to enable the owner to realize a reasonable return; and

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

WHEREAS, in response to Board concerns, the applicant has submitted a supplementary analysis from its

WHEREAS, the applicant also represents that a building without a penthouse or cellar residential space does not realize a reasonable return; and

WHEREAS, the applicant agreed to remove the penthouse from the design of the proposed building, but the rear yard equivalent will remain at 57 feet and the cellar residential space will be retained; and

WHEREAS, the proposed 4.13 FAR includes the cellar residential space, the construction of which incurs increased construction costs necessitating, in part, the FAR waiver; and

WHEREAS, the FAR waiver is also necessitated by the inefficiency of the small floor plates (approximately 1330 sq. ft. on average) of the new building, which will be built to a depth of 55 feet to minimize the encroachment into the required rear yard equivalent; and

WHEREAS, the Board asked the applicant to further clarify the rate of return for a building with an FAR of 4.0; and

WHEREAS, in a submission dated September 7, 2004, the applicant's financial expert states that an analysis of a 4.0 FAR scenario, without the cellar residential occupancy and attendant FAR waiver, results in a rate of return that is not reasonable versus a 4.13 FAR scenario; and

WHEREAS, the Board has reviewed this submission and finds it credible and 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 conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant maintains that the proposed building will not negatively impact the character of the neighborhood or the use and development of the neighboring property; and

WHEREAS, the Board finds that the proposed building would comply with all applicable setback provisions, including the required street wall of between 55 and 60 feet, and with the overall height limit of 75 feet, and that there would be no visible effect resulting from the requested waivers; and

WHEREAS, the Board finds that the rear yard waiver is minimal, and would not negatively affect adjacent properties; and

WHEREAS, based on the above, the Board finds that

financial expert analyzing the following building scenarios and the rate of return of each: (1) building without a penthouse; (2) building with a complying rear yard; (3) building without a penthouse and with a complying rear yard; (4) building without cellar residential space; and (5) building without cellar residential space or penthouse; and

WHEREAS, the applicant represents that a building without a penthouse and with a complying rear yard does not realize a reasonable return; and

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 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 an Environmental Assessment Statement (EAS) CEQR No. 04-BSA-073M dated August 20, 2003; 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, the action is located within New York City's Coastal Zone Boundary, and has been determined to be consistent with the New York City Waterfront Revitalization Program; 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.

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 and the Rules of Procedure for City Environmental Quality Review and Executive Order No.

MINUTES

91 of 1977, as amended and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed construction of a residential building (Use Group 2), which creates non-compliances with respect to Floor Area Ratio (a total FAR of 4.13 - including residential floor area in the cellar - where 4.0 is permitted), number of dwelling units (32 dwelling units where 27 are permitted), and rear yard equivalent (a rear yard of 57 feet where 60 is

THAT substantial construction be completed and a Certificate of Occupancy be obtained in accordance with Z.R. §72-23;

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

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

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

368-03-BZ

CEQR #04-BSA-094Q

APPLICANT - Eric Palatnik, P.C., for The Greater Allen Cathedral of New York, owner., Allen AME Housing Corp., lessee.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the construction of a new four-story mixed use building with residential, commercial, and community facility uses (Use Group 2, 3, and 6) in an C1-2/R3-2 zoning district, in which does not comply with Zoning Resolution §23-141(b), §23-22, §23-631(b), §23-45, §23-631(b)(4), §25-23, §25-231, §25-72 and §35-31.

PREMISES AFFECTED - 110-42 Merrick Boulevard, between 111th Avenue and 110th Road (Former Lots 65 and 67-76), Block 10200, Lot 71 (tent), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

required), contrary to Z.R. §§23-145, 23-22 and 23-533; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received August 24, 2004"- (11) sheets; and *on further condition*:

THAT all applicable fire safety measures, including those shown on the approved plans, shall be complied with;

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 13, 2004, acting on Department of Buildings Application No. 401723685, reads:

- "1. Proposed floor area is contrary to ZR 23-141 b.
 2. Proposed open space is contrary to ZR 23-141 b.
 3. Proposed lot coverage is contrary to ZR 23-141 b.
 4. Proposed number of dwelling units is contrary to ZR 23-22.
 5. Proposed perimeter wall height is contrary to ZR 23-631 b.
 6. Proposed total height is contrary to ZR 23-631 b.
 7. Proposed front yard is contrary to ZR 23-45.
 8. Proposed setback is contrary to ZR 23-45.
 9. Proposed sky exposure plane is contrary to ZR 23-631(b)(4).
 10. Proposed parking is contrary to ZR 25-23 and ZR 25-231.
 11. Proposed loading is contrary to ZR 25-72.
 12. Proposed floor area is contrary to ZR 35-31.";
- and

WHEREAS, a public hearing was held on this application on August 17, 2004, after due notice by publication in the *City Record*, and then to decision on September 14, 2004; and

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

WHEREAS, both Community Board 12, Queens, and the Queens Borough President recommend approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit a proposed four-story mixed-use residential/commercial development (Use Groups 2 and 6), located in an R3-2/C1-2 zoning district, which does not comply with the zoning requirements for floor area, open space, lot coverage, number of dwelling units, perimeter wall height, total height, front yard, setbacks, sky exposure, parking and loading, contrary to ZR §§23-141(b), 23-22, 23-

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631(b), 23-631(b)(4), 23-45, 25-23, 25-231, 25-72, and 35-31; and

WHEREAS, the subject premises is located on Merrick Blvd. in the Jamaica section of Queens, on the western side of Merrick Blvd. between 110th Road and 111th Avenue; and

WHEREAS, the Greater Allen Cathedral of New York (the "Cathedral"), a not-for-profit entity, is located across the street from the subject premises; the Cathedral, along with their development arm, Allen AME Housing Corporation, are the owners and developers of the proposed affordable housing development; and

WHEREAS, the applicant proposes to construct a four-story affordable housing mixed-use development, which requires the demolition of the existing structures; and

WHEREAS, the proposal contemplates parking at the cellar level for 53 motor vehicles, including 25 parking spaces dedicated for the commercial uses, one parking space for the community facility use and 27 parking spaces dedicated to the residential tenants; and

WHEREAS, the first floor will contain nine separate storefronts which will front Merrick Blvd., and will also contain a community facility element; and

WHEREAS, the second through fourth floors will contain 54 affordable housing dwelling units, including six studios, 24 one-bedroom units, and 24 two-bedroom units; and

WHEREAS, 9 of the units will be designated for individuals with physical disabilities; and

WHEREAS, the applicant states that the proposed development will almost entirely comply with the anticipated R6A zoning for the site, which is part of a broad contemplated rezoning in this area of Queens, proposed by the New York City Department of City Planning; and

WHEREAS, the applicant further states that due to funding concerns, the proposed development must be initiated as soon as possible, and thus the Cathedral cannot wait until the proposed rezoning, which is not expected to occur until late 2005; and

WHEREAS, the proposed building will meet the requirements of the Quality Housing Program, and will contain an elevator, and parking, recreation and laundry facilities; and

WHEREAS, the applicant states that the objective of the proposed development is to address the mission of the Cathedral, which includes the provision of affordable housing to area residents who are in desperate financial need and could not otherwise afford housing; and

WHEREAS, accordingly, the applicant states that the proposed rents are to be set as follows: (1) 15% of the units will have rents set at or below 30% of median income; (2) 26% of the units will have rents set at or below 50% of median income; and (3) 59% of the units will have rents set at or below 60% median income; and

WHEREAS, the applicant represents that the following is a unique physical condition, which creates practical difficulties and

WHEREAS, the lot is 28,942 sq. ft. in size, and is comprised of 11 tax lots, two of which are vacant land, eight of which are occupied by vacant two-story taxpayer type dwellings, and one of which is developed with a vacant one-story commercial structure; and

unnecessary hardship in developing the site in compliance with underlying district regulation: the subject site is underdeveloped and is improved with obsolete taxpayer structures and vacant land; and

WHEREAS, the applicant also claims that the basis of the uniqueness relates to the programmatic needs of the Cathedral; and

WHEREAS, the applicant states that in order for the proposed development to be financially viable, and to meet the requirements of the various sources of funding needed for this affordable housing development, a minimum number of dwelling units is required; and

WHEREAS, the applicant argues that this number of dwelling units cannot be achieved under the existing R3-2/C1-2 zoning designation and thus it is necessary to develop the premises nearly in accordance with an R6A zoning district; and

WHEREAS, the applicant notes that housing assistance to members of the congregation is a long-standing programmatic goal of the Cathedral; and.

WHEREAS, the applicant claims that many of the persons which the Cathedral serves are without permanent housing; and

WHEREAS, the applicant further claims that the commercial component of the proposed development achieves the Cathedral's broader goal of "community development", which helps establish and/or maintain the long-term viability of a neighborhood by addressing several broad elements of development, such as the delivery of convenient goods and services, as well as enhancement of stability and promotion of the positive attributes of a neighborhood; and

WHEREAS, the Board notes that the proposed development will be directly across from the Cathedral headquarters, which will allow for both diminished oversight costs and easy access for the prospective tenants to the myriad of programs of the Cathedral; and

WHEREAS, the Board also notes that the commercial component will provide easily accessible retail shopping to the prospective tenants, especially those with physical disabilities; and

WHEREAS, the Board finds that the proposed

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variances are needed to allow for a specific number of units sufficient to generate annual income from rent to cover operating costs and debt servicing; and

WHEREAS, the Board finds that the applicant submitted sufficient information explaining the programmatic needs of the applicant and their relation to the requested variance;

WHEREAS, based upon the foregoing, the Board finds that the unique condition mentioned above, when considered in conjunction with the programmatic needs of the applicant, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with current applicable zoning regulations; and

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

WHEREAS, the applicant states that the proposed variance will not affect the character of the neighborhood, impair the appropriate use or development of adjacent property or be detrimental to the public welfare; and

WHEREAS, the applicant claims that proposed development has been tastefully designed and will meet the requirements of the Quality Housing Program; and

WHEREAS, the applicant notes that the subject premises is situated within the boundaries of a proposed rezoning, which will re-designate the existing zoning district which extends north from the subject site on Merrick Blvd with R6A zoning; and

WHEREAS, R6A zoning provides for a 3.0 FAR and a wall height of 40 to 60 feet, comparable to that proposed in the instant application; and

WHEREAS, the applicant states that the proposed bulk of the development is comparable to numerous structures in the area, including: (1) a three/four story building at 116th Avenue and Merrick Blvd.; (2) a six-story building on Linden Blvd.; and (3) the Allen Christian School on Linden Blvd.; and

WHEREAS, the applicant has submitted photos of other buildings in the surrounding area with bulk comparable to the proposed development; and

WHEREAS, the Board finds that the bulk and height of the proposed development is not out of context with surrounding buildings on Merrick Boulevard (a wide street), including the Cathedral building, and other four, five and six story buildings in the area; and

WHEREAS, the applicant's traffic and parking expert has submitted an on-street parking/delivery analysis, dated September 8, 2004, which shows that available on-street parking will accommodate the parking demands related to the proposed development; and

WHEREAS, this same analysis concludes that commercial deliveries could easily be accommodated in front of the proposed commercial stores, or on surrounding streets, where no posted parking regulations exist; and

WHEREAS, the Board has reviewed the parking/delivery analysis and finds it credible and sufficient; and

and

WHEREAS, the Board further finds that the zoning lot is the only available underdeveloped parcel adjacent to the Cathedral that is suitable for the contemplated development; and

WHEREAS, the Board notes that during its site visit it observed the ample availability of unregulated on-street parking; and

WHEREAS, the applicant states that the 2,351 sq. ft. unenclosed, roof-top recreation space will compensate for the lack of open space at the premises; 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

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 the current 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 an Environmental Assessment Statement (EAS) CEQR No. 04-BSA-094Q dated July 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; 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 July 13, 2004 EAS and the parking survey submitted on September 9, 2004 specifically examined the proposed action for potential parking demand impacts and determined that there would not be any impacts; 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.

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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 and 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, to permit a proposed four-story mixed-use residential/commercial development (Use Groups 2 and 6), located in an R3-2/C1-2 zoning district, which does not comply with the zoning requirements for floor area, open space, lot coverage, number of dwelling units, perimeter wall height, total height, front yard, setbacks, sky exposure, parking, and loading, contrary to ZR §§23-141(b), 23-22, 23-631(b), 23-631(b)(4), 23-45, 25-23, 25-231, 25-72, and 35-31, *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received August 16, 2004"- (11) sheets; and *on further condition*;

THAT any change in use or ownership of the subject premises must be approved in advance by the Board of Standards and Appeals;

THAT parking shall be provided as shown on BSA-approved plans;

THAT a 2,351 sq. ft. roof top recreation area shall be provided as shown on BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

4-04-BZ

CEQR #04-BSA-114K

APPLICANT - Eric Palatnik, P.C., for Anna Donskoi, owner.

SUBJECT - Application January 6, 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 ratio, open space, rear and side yards, perimeter wall height and lot coverage is contrary to Z.R. §§23-141(a), §23-141, §23-45, §23-47, §23-61 and §23-631b.

PREMISES AFFECTED - 177 Norfolk Street, between Oriental

and Shore Boulevards, Block 8757, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 17, 2003, acting on Department of Buildings application No. 301636674, reads, in pertinent part:

- “(1) As per Z.R. 23-141(a), maximum permitted floor area ratio (FAR) is 0.5, proposed is 1.0;
 - (2) As per Z.R. 23-141(a), minimum required open space is 65%, proposed is 56.1%;
 - (3) As per Z.R. 23-141, maximum lot coverage permitted is 35%, proposed is 43.9%;
 - (4) As per Z.R. 23-45, minimum permitted rear yard is 30’, proposed is 27’;
 - (5) As per Z.R. 23-61, minimum permitted side yard area is 5’ & 8’ 2 sides, proposed is 4’ 8 ¾” & 5 ¾”;
- and

WHEREAS a public hearing was held on this application on August 17, 2004 after due publication in *The City Record*, and then laid over to September 14, 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 and Vice-Chair Babbar; and

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

WHEREAS, this is an application 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 ratio, open space, rear and side yards, and lot coverage, contrary to Z.R. §§23-141(a), 23-141, 23-45, 23-47, and 23-61; and

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WHEREAS, the subject lot is located on Norfolk Street, Brooklyn, north of Oriental Boulevard and is comprised of one tax lot with a total lot area of approximately 2,500 sq. ft.; and

WHEREAS, the applicant states that the subject premises is an existing single-story residential structure; and

WHEREAS, the subject premises falls entirely within the designated area of Community Board 15, Brooklyn; and

WHEREAS, the applicant seeks permission to enlarge the floor area of the existing single-family residential structure, while at the same time reducing the size of its footprint, which will be accomplished by the proposed elimination of a portion of the rear of the existing structure and the addition of a second level and attic; and

WHEREAS, the applicant represents that the attic space will count towards permitted floor area; 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 perimeter wall height will comply with all applicable zoning regulations; 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 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, 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. §§73-622 and 73-03.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 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 ratio, open space, rear and side yards, perimeter wall height and lot coverage, contrary to Z.R. §§23-141(a), 23-141, 23-45, 23-47, 23-61 and 23-631b; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received August 27, 2004"-(4) sheets, and "September 13, 2004"-(1) sheet and *on further condition*;

THAT the attic is included in the total floor area;

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

THAT this approval is limited to the relief granted by the

WHEREAS, a public hearing was held on this application on July 13, 2004 after due notice by publication

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

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

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

19-04-BZ

CEQR #04-BSA-124X

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

SUBJECT - Application February 6, 2004 - under Z.R. §11-412 to permit the reestablishment of an expired variance previously granted under BSA Cal. No. 423-54-BZ, for a gasoline service station (Use Group 16) in a C2-1 within an R4 zoning district, as well as the legalization of the conversion of a portion of the gas station building to an accessory retail convenience store, contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 1217 East 233rd Street, a/k/a 3923 Baychester Avenue, Block 4954, Lot 68, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Janice Cahalane.

THE ACTION OF BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 26, 2004, acting on Department of Buildings Application No. 200742296, reads:

"Continued use of the gasoline service station, and conversion of the building into an accessory convenience store, is contrary to the BSA grant under application number 423-54-BZ, and not permitted as-of-right within an R4/C2-1 zoning district as per Sections 22-10 and 21-10 of the Zoning Resolution."; and

in the *City Record*, with a continued hearing on August 10, 2004, and then to decision on September 14, 2004; and

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

WHEREAS, this is an application under Z.R. §§11-411 and 11-412 to permit the reestablishment of an expired variance previously granted under BSA Cal. No. 423-54-BZ, for a gasoline service station (Use Group 16) in a C2-1 within an R4 zoning district, as well as the legalization of the extension of the accessory retail convenience store use within the gas station building, contrary to Z.R. §22-10 and §32-10; and

WHEREAS, Community Board No. 12, Bronx, has recommended approval of this application; and

WHEREAS, the subject lot is at the northwest corner of the intersection of East 233rd Street and Baychester Avenue, and has a total lot area of 11,423 sq. ft.; and

WHEREAS, the lot is currently improved upon with a 14'8" high, one-story building with 1,645 sq. ft. of total floor area; and

WHEREAS, in 1956, under BSA Calendar Nos. 423-54-BZ, Vol. II and 767-55-A, the Board granted a variance to permit a gasoline service station with accessory uses, including minor auto repair and sales of auto accessories; and

WHEREAS, this variance has been extended and amended at various time since 1956; the most recent extension of term was on July 14, 1992; and

WHEREAS, the applicant seeks: (1) an extension of the term of the variance; and (2) Board approval of the extension of the retail sales use within the existing building; and

WHEREAS, the applicant states that the extension of the retail sales use within the existing building was necessitated by the lack of viability of the accessory auto repair use and continuing high costs associated with the regulation of gasoline sales; and

WHEREAS, the Board notes that a convenience store is a permitted use within the subject zoning district; and

WHEREAS, pursuant to Z.R. §11-411, the Board may, in appropriate cases, renew the term of a previously granted variance for a term of not more than ten years; and

WHEREAS, pursuant to Z.R. §11-412, the Board may, in appropriate cases, allow the alteration of a building on a premises subject to a pre-1961 variance; and

WHEREAS, the applicant has explained that the failure to obtain a certificate of occupancy up to this point in time was due to a dispute between the owner and the prior architect; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§11-411 and 11-412.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 SUBJECT - Application February 11, 2004- under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a

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 and *grants* a variation in the application of the Zoning Resolution, limited to the objection cited, on a site previously before the Board, to permit the reestablishment of an expired variance previously granted under BSA Cal. No. 423-54-BZ, for a gasoline service station (Use Group 16) in a C2-1 within an R4 zoning district, as well as the legalization of the conversion of a portion of the gas station building to an accessory retail convenience store, contrary to Z.R. §22-10 and §32-10, *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application and marked "July 24, 2004" -(6) sheets; and *on further condition*;

THAT the term of the variance shall be limited to ten (10) years from July 15, 2002, expiring on July 14, 2012;

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

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

THAT signage shall be provided in accordance with BSA-approved plans, and shall comply with underlying zoning regulations;

THAT all landscaping, fencing and screening shall be provided in accordance with BSA-approved plans;

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

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;

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, September 14, 2004.

28-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b)

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PREMISES AFFECTED - 427 Logan Street, east side of Logan Street between Pitkin and Glenmore Avenues, Block 4209, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 21, 2004, acting on DOB Application No. 301363290, reads:

“This is to serve as a notice that the building being constructed under this application does not comply with section 23-461(b) of the Zoning Resolution. This section requires an 8’0” side yard in an R5 zone. The building is built full to the property line. This notice is being filed in fulfillment of the architect of record’s obligation under the professional certification program”; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirement, contrary to Z.R. §23-461(b); and

WHEREAS, the record indicates that the subject premises is a 21’3” x 100’ lot, with a total area of 2,125 sq. ft., and is improved with a 2,231 sq. ft. three-story, two-family

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

home; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development (“HPD”), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that the existing building was built without the appropriate side yard; the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the application received an audited review by the Department of Buildings (“DOB”), and the side yard issue was not raised; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and

WHEREAS, the applicant states that pursuant to Z.R. §23-461(b) an 8-foot wide side yard is required for single or two-family semi-detached homes within an R5 zoning district, and that compliance with this section on a narrow zoning lot measuring 21-feet wide does not permit the construction of a functional residence and would result in the loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; and

WHEREAS, Brooklyn Community Board No. 5 has recommended approval of

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

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

WHEREAS, the project is classified as Unlisted action

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pursuant to 6NYCRR, Part 617; and

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

Resolved, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b), *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 8, 2004"-(4) sheets; and *on further condition*;

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

THAT the 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.

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to

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

29-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b).

PREMISES AFFECTED - 499 Logan Street, east side of Logan Street between Belmont and Pitkin Avenues, Block 4228, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

THE VOTE TO CLOSE HEARING -

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

THE VOTE TO GRANT -

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

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 20, 2004, acting on DOB Application No. 301363389, reads:

"This is to serve as a notice that the building being constructed under this application does not comply with section 23-461(b) of the Zoning Resolution. This section requires an 8'0" side yard in an R5 zone. The building is built full to the property line. This notice is being filed in fulfillment of the architect of record's obligation under the professional certification program"; and

permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirement, contrary to Z.R. §23-461(b); and

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

WHEREAS, the record indicates that the subject premises is a 20' x 100' lot, and is improved with a three-story, two-family home of approximately 2,100 sq. ft.; and

WHEREAS, the Board notes that the subject premises

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is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development ("HPD"), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that the existing building was built without the appropriate side yard; the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the application received an audited review by the Department of Buildings ("DOB"), and the side yard issue was not raised; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and

WHEREAS, the applicant states that pursuant to Z.R. §23-461(b) an 8-foot wide side yard is required for single or two-family semi-detached homes within an R5 zoning district, and that compliance with this section on a narrow zoning lot measuring 20-feet wide does not permit the construction of a functional residence and would result in the loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic needs; and

Resolved, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b), *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 8, 2004"-(4) sheets; and *on further condition*;

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; 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 hardship herein was not created by the owner or a predecessor in title; and

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

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

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

WHEREAS, the New York City Department of Housing Preservation and Development (HPD) has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

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, September 14, 2004.

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30-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45.

PREMISES AFFECTED - 1109 Sutter Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4039, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 20, 2004, acting on DOB Application No. 301363496, reads:

“This is to serve as a notice that the building being constructed under this application does not comply with section 23-45 of the Zoning Resolution. This

WHEREAS, however, the application received an audited review by the Department of Buildings (“DOB”), and the front yard issue was not raised and the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and

WHEREAS, the applicant represents that pursuant to Z.R. §23-45 an 10-foot front yard is required along Montauk Avenue, and that compliance with this section on a narrow zoning lot measuring 20-feet wide would result in a building with a 10-foot width which would result in the loss of much needed dwelling units and be impractical; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and

section requires a corner lot to have two front yards in an R5 zone. The building has been built with one front yard. This notice is being filed in fulfillment of the architect of record’s obligation under the professional certification program”; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45; and

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

WHEREAS, the record indicates that the subject premises is a corner lot with a frontage of 20’ along Sutter Avenue and 90’ along Montauk Avenue, and is improved with a 2,100 sq. ft. three-story, two-family home; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development (“HPD”), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that although two front yards are required pursuant to Z.R. Section 23-45, the existing building was built with only one front yard - which is non-complying; and
practically difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the ASHP application is filed with seven of its program uses; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; 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 hardship herein was not created by the

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owner or a predecessor in title; and

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

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

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

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; and

WHEREAS, the December 4, 2001 EAS specifically examined the proposed action for potential hazardous materials and noise impacts and determined that there would not be any impacts based on specific conditions being complied with; and

WHEREAS, the applicant has agreed to the following conditions with HPD:

1. The developer shall provide minimum window-wall attenuation of 30dB(A) in the living room and bedrooms of each residential unit on all facades of the building;

2. The developer shall implement soil and

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, September 14, 2004.

31-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004- under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b).

PREMISES AFFECTED - 842 Glenmore Avenue, Glenmore

groundwater testing to determine the presence of soil and/or groundwater contamination. HPD or the developer shall not start site grading, excavation or building construction until testing and remediation (if needed) have been completed and written approval from the New York City Department of Environmental Protection has been received; 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.

Resolved, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 8, 2004"-(4) sheets; and *on further condition*;

Avenue between Atkins and Montauk Avenues, Block 4007, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough

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Commissioner, dated January 20, 2004, acting on DOB Application No. 301363487, reads:

“This is to serve as a notice that the building being constructed under this application does not comply with section 23-461(b) of the Zoning Resolution. This section requires an 8’0” side yard in an R5 zone. The building is built full to the property line. This notice is being filed in fulfillment of the architect of record’s obligation under the professional certification program”; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirement, contrary to Z.R. §23-461(b); and

WHEREAS, the record indicates that the subject premises is approximately a 18.5’ x 100’ lot, and is improved with a three-story, two-family home of

WHEREAS, the applicant states that pursuant to Z.R. §23-461(b) an 8-foot wide side yard is required for single or two-family semi-detached homes within an R5 zoning district, and that compliance with this section on a narrow zoning lot measuring 18.5 -feet wide does not permit the construction of a functional residence and would result in the loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; 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 hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, this proposal is the minimum necessary to

approximately 1,942 sq. ft.; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development (“HPD”), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that the existing building was built without the appropriate side yard; the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the application received an audited review by the Department of Buildings (“DOB”), and the side yard issue was not raised; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and WHEREAS, Brooklyn Community Board No. 5 has recommended approval o

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 Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the New York City Department of Housing Preservation and Development (“HPD”) has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

Resolved, that the Board of Standards and Appeals adopts HPD’s Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and the Rules of Procedure for City Environmental

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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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b), *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 17, 2004"-(4) sheets; and *on further condition*;

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

THAT the 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, September 14, 2004.

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

THE VOTE TO GRANT -

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

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 20, 2004, acting on DOB Application No. 301363012, reads:

"This is to serve as a notice that the building being constructed under this application does not comply with section 23-45 of the Zoning Resolution. This section requires a corner lot to have two front yards in an R5 zone. The building has been built with one front yard. This notice is being filed in fulfillment of the architect of record's obligation under the professional certification program"; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R5 zoning district, the legalization of a

32-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45.

PREMISES AFFECTED - 860 Glenmore Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4007, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

THE VOTE TO CLOSE HEARING -

three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45; and

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

WHEREAS, the record indicates that the subject premises is a corner lot with a frontage of 21' along Glenmore Avenue and 92' along Montauk Avenue, and is improved with a 2,100 sq. ft. three-story, two-family home; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development ("HPD"), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that although two front yards are required pursuant to Z.R. Section 23-45, the existing building was built with only one front yard - which is non-complying; and

WHEREAS, however, the application received an audited review by the Department of Buildings ("DOB"), and the front yard issue was not raised and the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and WHER

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WHEREAS, the applicant represents that pursuant to Z.R. §23-45 an 10-foot front yard is required along Montauk Avenue, and that compliance with this section on a narrow zoning lot measuring 21-feet wide would result in a building with an 11-foot width which would result in the loss of much needed dwelling units and be impractical; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practically difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

Resolved, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 8, 2004"-(4) sheets; and *on further condition*;

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

needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; 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 hardship herein was not created by the owner or a predecessor in title; and

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

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

WHEREAS, the project is classified as Unlisted action pursuant to 6NYCRR, Part 617; and 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, September 14, 2004.

33-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b).

PREMISES AFFECTED - 896 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Milford Street, Block 4208, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

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Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough
Commissioner, dated January 21, 2004, acting on DOB
Application No. 301363236, reads:

“This is to serve as a notice that the building being
constructed under this application does not comply
with section 23-461(b) of the Zoning Resolution.

WHEREAS, this is an application under Z.R. §72-21, to
permit, within an R5 zoning district, the legalization of a
three-story, two-family home which does not comply with the
side yard requirement, contrary to Z.R. §23-461(b); and WHEREAS, the Brooklyn Community Board for Non-Profit has organized the approval of

WHEREAS, the record indicates that the subject
premises is approximately a 20' x 90' lot, and is improved
with a three-story, two-family home of approximately 2,100
sq. ft.; and

WHEREAS, the Board notes that the subject premises
is one of forty-eight homes built as an affordable housing
project on lots formerly owned by the City of New York that
are scattered within a five block radius in the East New York
section of Brooklyn; and

WHEREAS, the entire project is sponsored by the
Department of Housing Preservation and Development
(“HPD”), in conjunction with the NYC Partnership Housing
Development Fund, Inc., which is a not-for-profit corporation;
and

WHEREAS, the record indicates that the existing
building was built without the appropriate side yard; the
existing building received a work permit pursuant to a
professionally certified application; and

WHEREAS, the application received an audited review
by the Department of Buildings (“DOB”), and the side yard
issue was not raised; and

WHEREAS, the architect of record became aware of
the non-compliance well after construction commenced and
notified DOB on his own in order to rectify the error; and

WHEREAS, the applicant states that pursuant to Z.R.
§23-461(b) an 8-foot wide side yard is required for single or
two-family semi-detached homes within an R5 zoning
district, and that compliance with this section on a narrow
zoning lot measuring 20-feet wide does not permit the
construction of a functional residence and would result in the
loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the
zoning lot, considered in conjunction with the programmatic
needs of the not-for-profit organization to develop low-
income housing, creates unnecessary hardship and
practical difficulties in strictly complying with the applicable
provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing

This section requires an 8’0” side yard in an R5
zone. The building is built full to the property line.

This notice is being filed in fulfillment of the
architect of record’s obligation under the
professional certification program”; and

WHEREAS, a public hearing was held on this
application on August 17, 2004 after due notice by
publication in *The City Record*, and then laid over to
September 14, 2004; and

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

development is owned in fee title by the NYC Partnership
Housing Development Fund, Inc. and therefore the Board
finds that the applicant need not address Z.R. §72-21(b)

WHEREAS, the Board finds that the proposed development
will be in furtherance of its programmatic
needs; and

WHEREAS, the record indicates that the surrounding
area is residential and the subject building is compatible in
size and bulk with the surrounding homes; 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 hardship herein was not created by the
owner or a predecessor in title; and

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

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

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

WHEREAS, the New York City Department of Housing
Preservation and Development (“HPD”) has conducted an
environmental review of the proposed action and has
documented relevant information about the project in an

WHEREAS, the applicant has filed with seven companion cases, under BS
EAS, its application with Statement of Environmental Assessment (EAS) for BS
02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as
proposed would not have significant adverse impacts on
Socioeconomic Conditions; Community Facilities; Open
Space; Historic Resources; Neighborhood Character;
Natural Resources; Hazardous Materials; Waterfront
Revitalization Program; Infrastructure; Solid Waste;
Transportation; Air Quality; and Noise; 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.

MINUTES

Resolved, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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 variation in the

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, September 14, 2004.

34-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004- under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45.

PREMISES AFFECTED - 910 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Fountain Avenue, Block 4209, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 20, 2004, acting on DOB

application of the Zoning Resolution, limited to the objections cited, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b), *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 8, 2004"-(4) sheets; and *on further condition*; Application No. 301363307, reads:

"This is to serve as a notice that the building being constructed under this application does not comply with section 23-45 of the Zoning Resolution. This section requires a corner lot to have two front yards in an R5 zone. The building has been built with one front yard. This notice is being filed in fulfillment of the architect of record's obligation under the professional certification program"; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45; and

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

WHEREAS, the record indicates that the subject premises is a corner lot with a frontage of 20' along Glenmore Avenue and 75' along Logan Street, and is improved with a 2,100 sq. ft. three-story, two-family home; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development ("HPD"), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that although two front yards are required pursuant to Z.R. Section 23-45, the existing building was built with only one front yard - which is non-complying; and

WHEREAS, however, the application received an audited review by the Department of Buildings ("DOB"), and the front yard issue was not raised and the existing building received a work permit pursuant to a professionally certified application; and

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WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and

WHEREAS, the applicant represents that pursuant to Z.R. §23-45 an 10-foot front yard is required along Logan Street, and that compliance with this section on a narrow zoning lot measuring 20-feet wide would result in a building with an 10-foot width which would result in the loss of much needed dwelling units and be impractical; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practically difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; 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 hardship herein was not created by the owner or a predecessor in title; and

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

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

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

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

notified DOB on his own in order to rectify the error; and WHERE

Resolved, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 8, 2004"-(4) sheets; and *on further condition*;

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

THAT the 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, September 14, 2004.

35-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b).

PREMISES AFFECTED - 247 Montauk Avenue, east side of Montauk Avenue between Belmont Avenue and Sutter Avenue, Block 4040, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

MINUTES

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough
Commissioner, dated January 20, 2004, acting on DOB
Application No. 301363183, reads:

“This is to serve as a notice that the building being
constructed under this application does not comply
with section 23-461(b) of the Zoning Resolution.
This section requires an 8'0" side yard in an R5
zone. The building is built full to the property line.
This notice is being filed in fulfillment of the
architect of record’s obligation under the
professional certification program”; and

WHEREAS, a public hearing was held on this
application on August 17, 2004 after due notice by
publication in *The City Record*, and then laid over to
September 14, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to
permit, within an R5 zoning district, the legalization of a
three-story, two-family home which does not comply with the
side yard requirement, contrary to Z.R. §23-461(b); and WHEREAS, the Board has reviewed the application and approval of
adjacent properties, nor will it be detrimental to the public
welfare; and

WHEREAS, the record indicates that the subject
premises is a 20' x 100' lot, and is improved with a three-
story, two-family home of approximately 2,100 sq. ft.; and

WHEREAS, the Board notes that the subject premises
is one of forty-eight homes built as an affordable housing
project on lots formerly owned by the City of New York that
are scattered within a five block radius in the East New York
section of Brooklyn; and

WHEREAS, the entire project is sponsored by the
Department of Housing Preservation and Development
(“HPD”), in conjunction with the NYC Partnership Housing

WHEREAS, the New York City Department of Housing
Preservation and Development (“HPD”) has conducted an
environmental review of the proposed action and has
documented relevant information about the project in an
Environmental Assessment Statement (EAS) CEQR No.
02HPD008K dated December 4, 2001; and

Development Fund, Inc., which is a not-for-profit corporation;
and

WHEREAS, the record indicates that the existing
building was built without the appropriate side yard; the
existing building received a work permit pursuant to a
professionally certified application; and

WHEREAS, the application received an audited review
by the Department of Buildings (“DOB”), and the side yard
issue was not raised; and

WHEREAS, the architect of record became aware of
the non-compliance well after construction commenced and
notified DOB on his own in order to rectify the error; and WHER

WHEREAS, the applicant states that pursuant to Z.R.
§23-461(b) an 8-foot wide side yard is required for single or
two-family semi-detached homes within an R5 zoning
district, and that compliance with this section on a narrow
zoning lot measuring 20-feet wide does not permit the
construction of a functional residence and would result in the
loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the
zoning lot, considered in conjunction with the programmatic
needs of the not-for-profit organization to develop low-
income housing, creates unnecessary hardship and
practical difficulties in strictly complying with the applicable
provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing
development is owned in fee title by the NYC Partnership
Housing Development Fund, Inc. and therefore the Board
finds that the applicant need not address Z.R. §72-21(b)
since the applicant is a not-for-profit organization and the
development will be in furtherance of its programmatic
needs; and

WHEREAS, the record indicates that the surrounding
area is residential and the subject building is compatible in
size and bulk with the surrounding homes; 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 hardship herein was not created by the
owner or a predecessor in title; and

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

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

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

WHEREAS, the EAS documents that the project as
proposed would not have significant adverse impacts on
Socioeconomic Conditions; Community Facilities; Open
Space; Historic Resources; Neighborhood Character;
Natural Resources; Hazardous Materials; Waterfront
Revitalization Program; Infrastructure; Solid Waste;
Transportation; Air Quality; and Noise; and

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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.

Resolved, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b), *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 8, 2004"-(4) sheets; and *on further condition*;

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

THAT the 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, September 14, 2004.

42-04-BZ

CEQR #04-BSA-135K

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

WHEREAS, this is an application pursuant to Z.R. §73-622 to permit the proposed enlargement to an existing single-family dwelling located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, and side and rear yard, contrary to Z.R. §§23-141, 23-47, and 23-461; and

WHEREAS, a site and neighborhood examination has been conducted at the premises and surrounding area by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

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

WHEREAS, the premises consists of a 3,750 sq. ft. lot,

Goldstein and Zipora Goldstein, owners.

SUBJECT - Application February 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement to an existing single-family dwelling located in an R2 Zoning District, which does not comply with the zoning requirements for floor area ratio, open space ratio, and side and rear yard, contrary to Z.R. §§23-141, 23-47, and 23-461.

PREMISES AFFECTED - 1264 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 71, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated January 27, 2004, acting on Application No. 301687306, reads in pertinent part:

"Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of .50.

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space ratio of 150.

Proposed plans are contrary to ZR 23-461 in that the proposed straight line enlargement continues with the existing non-straight line enlargement and continues with the existing non-complying side yard of 3'-1" (after installation of brick veneer) and is less than the minimum required side yard of 5'-0".

Proposed plans are contrary to ZR 23-47 in that the proposed rear yard of 20 feet is less than the minimum required rear yard of 30 feet."; and

WHEREAS, a public hearing was held on this application on August 10, 2004 after due notice by publication in the *City Record*, and then to September 14, 2004 for decision; and

located on East 27th Street between Avenues L and M, and is currently improved with a two-story residential structure containing 2,855 sq. ft. of floor area; and

WHEREAS, the applicant states that the proposed enlargement will increase the floor area ratio of the building from 0.76 to 1.05 and reduce the open space ratio from 0.85 to 0.524; and

WHEREAS, the proposed enlargement will reduce the existing side yards from 3'-5" and 9'-7.5" to 3'-1" and 9'-1"; 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 perimeter wall height will comply with

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all applicable zoning regulations; 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 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 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 and *grants* a special permit under Z.R. §§73-622 and 73-03, to permit the proposed enlargement to an existing single-family dwelling located in an R2 Zoning District, which does not comply with the zoning requirements for floor area ratio, open space ratio, and side and rear yard, contrary to Z.R. §§23-141, 23-47, and 23-461, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received June 9, 2004"-(8) sheets and "August 31, 2004"-(1) sheet; and *on further condition*;

THAT there shall be no habitable room in the cellar;

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

THAT any installation of brick veneer at the northern side of the building shall be as reviewed and approved by the Department of Buildings;

THAT all parking facilities 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; no waiver is granted as to the cellar or brick veneer;

WHEREAS, the decision of the Borough Commissioner, dated May 17, 2004, acting on Department of Buildings Application No. 301770509, reads:

- "1. The proposed enlargement of the building exceeds the floor area ratio and is more than the maximum lot coverage and less than the minimum open space requirements set forth in Sections 113-51 and 23-141 of the Zoning Resolution.
2. The proposed enlargement of the building is not within the height and setback requirements set forth in Section 23-631 and 113-55 of the Zoning Resolution.

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

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

206-04-BZ

CEQR #04-BSA-205K

APPLICANT - Howard A. Zipser, Esq., for Sephardic Community Youth Center, Inc., owner.

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 zoning district (within the Ocean Parkway Special Zoning District), which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, front yard, side yards, and height and setback, contrary to Z.R. §§113-51, 113-544, 113-55, 23-631 and 23-141.

PREMISES AFFECTED - 1901 Ocean Parkway, southeast corner of Avenue "S", Block 7088, Lots 1, 14, 15, 16 and 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

THE RESOLUTION -

3. The proposed enlargement of the building is not within the rear yard requirement and rear yard equivalent set forth in Section 113-544 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on August 10, 2004, after due notice by publication in *The City Record*, and then to decision on September 14, 2004; and

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

WHEREAS, Community Board 15, Brooklyn,

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recommends approval of this application; and

WHEREAS, various elected officials also supported this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 zoning district (within the Ocean Parkway Special Zoning District), which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, rear yard and rear yard equivalents, and height and setback, contrary to Z.R. §§113-51, 113-544, 113-55, 23-631 and 23-141; and

WHEREAS, the subject premises is located on the corner of Ocean Parkway and Avenue S, with frontage on East 7th Street, and has a total lot area of approximately 23,000 sq. ft.; and

WHEREAS, the zoning lot is comprised of the following individual tax lots: 1, 14, 15, 16 and 89; and

WHEREAS, the site is currently occupied by a three-story plus basement building, 50'4" in height, with 42,495 sq. ft. of total floor area; and

WHEREAS, the existing building is currently occupied by the Sephardic Community Center (the "Center"), a not-for-profit entity that serves youth, the elderly, and the Orthodox community by providing various educational, athletic, cultural and counseling services; and

WHEREAS, in 1978, under BSA Calendar No. 246-78-BZ, the Board granted a variance permitting the use of the building as a community center; and

WHEREAS, in 1989, under BSA Calendar No. 489-89-BZ, the Board granted a second variance permitting an enlargement and expansion of the building onto two newly acquired adjacent lots, in order to accommodate the Center; and

WHEREAS, construction under the 1989 grant did not take place, due to a poor economic climate and a resulting lack of construction funding; and

WHEREAS, in November of 2000, under BSA Calendar No. 166-00-BZ, the Board granted a third variance permitting another proposed enlargement of the building, again to accommodate the Center; and

WHEREAS, the applicant states that the Center does

WHEREAS, the applicant represents that the following are programmatic needs of the Center that will be fulfilled through the proposed variance: (1) maintaining a full service early childhood/daycare center; (2) developing a teen lounge; (3) constructing a senior adult center; (4) constructing a new, full-size gym; (5) developing an adult club with specialty and education rooms; and (6) expanding senior adult and special needs exercise facilities; and

WHEREAS, the applicant states that to obtain the necessary expansion space to accommodate these programmatic needs while both respecting the surrounding building heights and avoiding functionally disruptive interrupted floors, relief from applicable yard requirements is necessary; and

WHEREAS, the applicant notes that the proposed

not want to pursue construction under the November 2000 grant, as the anticipated costs are high and would not allow for the continuation of Center activities during construction; and

WHEREAS, the applicant also states that the Center obtained two more contiguous properties (Lots 15 and 16) that allow for a more contextual horizontal expansion, a full-height gymnasium, better security features, and a less disruptive construction program; and

WHEREAS, the expansion contemplates the addition of: (1) approximately 3,400 sq. ft. of floor area to the top of the existing building; and (2) 34,473.6 sq. ft. of floor area through the construction of a four-story addition next to the existing building; and

WHEREAS, the proposed four-story addition will result in rear yard and height encroachments; and

WHEREAS, the overall expansion will lead to the following non-compliances: an increase in the FAR from the permitted 1.5 to 2.66, an open space ratio of 27.70 (45 is required), deficient side yards on Ocean Parkway (4'6" where 8' is required) and East 7th Street (5'11" where no less than 10' is required), deficient rear yards on East 7th Street, a building height of 63.62' (35' is the maximum in the subdistrict), and an increase in the various lot coverages above what is permitted; and

WHEREAS, the applicant represents that the proposed height encroachments will be no higher than the height encroachments previously granted by the Board in 2000; and

WHEREAS, the applicant further represents that the proposal will lead to a slightly lesser overall FAR than previously permitted, as well as improvements in the degree of the variances for lot coverage, front yard, and height and setback; and

WHEREAS, the applicant represents that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the site in compliance with underlying district regulations: the substandard width of the recently purchased lots, which, if developed as-of-right, would lead to a narrow building that would not functionally serve the Center; and enlargement will permit better circulation throughout the Center, and will eliminate the need to rent off-site space for certain activities; and

WHEREAS, in response to a Board request, the applicant has explained where the additional floor area will be added to the existing building, specifying that most of the proposed expansion will occur on the recently acquired tax lots (Lots 14, 15, 16, and 89), with some floor area added to the top of the existing building; and

WHEREAS, in response to a Board question, the applicant has explained that the East 7th Street side yard setback waiver is necessitated by the minimum required dimensions for the gym, and that the proposed width of the gym is barely within the minimum required for division of the floor for half court play, which allows multiple group utilization

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of the gym; and

WHEREAS, the applicant also explained that the Ocean Parkway side yard setback waiver is necessitated by the minimum dimension required for the programmatic use of the hall on the first floor of the building, which serves as a lobby, security check, and staging area for the membership; and

WHEREAS, the applicant further represents that the Ocean Parkway side yard setback waiver accommodates classrooms and program spaces; and

WHEREAS, the Board finds that the applicant submitted sufficient information explaining the programmatic needs of the applicant and their relation to the requested variance; and

WHEREAS, based upon the foregoing, the Board finds that the unique condition mentioned above, when considered in conjunction with the programmatic needs of the applicant, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with currently applicable zoning regulations; and

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

WHEREAS, the applicant states that the surrounding streets are primarily mapped within an R5 zoning district, and that Ocean Parkway to the north is mapped within an R6A zoning district, where six-story apartment buildings are the norm; and

WHEREAS, the applicant further states that other community facilities exist within two to three block of the Center; and

WHEREAS, the applicant notes that the surrounding streets primarily contain two and three story dwellings that are non-complying with regard to front, side and rear yards; 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, the April 28, 2004 EAS specifically examined the proposed action for potential hazardous materials, traffic, and parking demand impacts and determined that there would not be any impacts; 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

WHEREAS, the applicant represents that because the proposed number of occupants of the Center will remain unchanged, no significant increase in motor vehicle traffic is expected; and

WHEREAS, the applicant also states that the Center is within walking distance of most of its membership; and

WHEREAS, the Board has reviewed the submitted land use map and has conducted a site visit, and finds that the bulk and height of the proposed building is not out of context with surrounding buildings, given the variety of building types existing in the vicinity; and

WHEREAS, specifically, the Board notes that there is a four-story multiple dwelling across East 7th Street and another four-story multiple dwelling across Avenue S; and

WHEREAS, the Board also notes that the proposed height of the addition is comparable to that of the existing building housing the Center; 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

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 the current 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 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 an Environmental Assessment Statement (EAS) CEQR No. 04-BSA205K dated April 28, 2004; and
on the environment.

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 and 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, to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 zoning district (within the Ocean Parkway Special Zoning District), which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, front yard, side yards, and height and setback, contrary to Z.R. §§113-51, 113-544, 113-55, 23-631 and 23-141, *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received August 6, 2004" - (13) sheets, and *on further condition*;

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THAT an automatic wet sprinkler system, smoke detection system, and fire alarm system be installed throughout the entire existing and proposed building, and that all three systems be connected to a Fire Department approved central station;

THAT the above condition and all relevant conditions from prior certificates of occupancy shall appear on the new certificate of occupancy;

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

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

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

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

Adopted by the Board of Standards and Appeals, September 14, 2004.

161-02-BZ

APPLICANT - SFS Associates, for Coral Cove, LLC, owner.

SUBJECT - Application May 20, 2002 - under Z.R. § 72-21 to permit the proposed construction of a six story residential building, Use Group 2, located in a C3 zoning district, which does not comply with the zoning requirements for floor area ratio, perimeter wall, height, lot area per dwelling unit, setback, sky exposure and parking,
SUBJECT - Application June 25, 2003 - under Z.R. §72-21 to permit the proposed nine-story mixed use building with residential, commercial and community facility uses, located in an M1-1 zoning district, which does not comply with the zoning requirements for the uses, permitted floor area, total height and perimeter wall, is contrary to Z.R. §42-00, §23-141 and §23-631.

PREMISES AFFECTED - 19-73 38th Street, corner of 20th Avenue, Steinway Street and 38th Street, Block 811, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

for Applicant: Gerald Caliendo.

ACTION OF THE BOARD - Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

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-

is contrary to Z.R. §§23-00 and 25-00.

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

COMMUNITY BOARD #15BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

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.

ACTION OF THE BOARD - Laid over to October 26, 2004, at 1:30 P.M., for continued hearing.

218-03-BZ

APPLICANT - Gerald J. Caliendo, R.A., for TTW Realty LLC, owner.

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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.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

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 October 5, 2004, at 1:30 P.M., for decision, hearing closed.

287-03-BZ

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

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SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 430 Keap Street, southeast corner of Hope Street, Block 2387, Lot 2, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to October 19, 2004, at 1:30 P.M., for continued hearing.

306-03-BZ

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Emily Simons.

THE VOTE TO CLOSE HEARING -

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

358-03-BZ

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52nd Street, north side, 334'-4½" west of 17th Avenue, Block 5466, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Harold Weinberg and Rita Citronenbaum.

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 October 5, 2004, at 1:30 P.M., for decision, hearing closed.

364-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Alprof Realty LLC/VFP Realty LLC, owners.

SUBJECT - Application November 24, 2003 - under Z.R. §72-21

Negative:.....0

ACTION OF THE BOARD - Laid over to November 9, 2004, at 1:30 P.M., for decision, hearing closed.

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.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

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 October 19, 2004, at 1:30 P.M., for decision, hearing closed.

to permit the proposed construction of an automotive car wash and Lubritorium, Use Group 2, located in a C2-2(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 34-11 Far Rockaway Boulevard, southeast corner of Sea Girt Boulevard, Block 15950, Lots 14 and 24, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Adam W. Rothkrug, and Alan Profeter.

For Opposition: Marlen Waaijer and Stephen Cooper.

ACTION OF THE BOARD - Laid over to October 26, 2004, at 1:30 P.M., for continued hearing.

381-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Hamilton G.S. Realty, owner.

SUBJECT - Application December 8, 2003 - under Z.R. §72-21 to permit the proposed expansion of existing social security offices, and the addition of school by adding a second floor, to an existing one story building, located in an M1-1 zoning district, which does not comply with the zoning requirements for Use Group and floor area, and is contrary to Z.R. §42-00, §43-12 and §43-122.

PREMISES AFFECTED - 6023 Fort Hamilton Parkway, a/k/a 6013/23 Fort Hamilton Parkway, a/k/a 6012/24 Tenth Avenue, and a/k/a 973/83 61st Street, northeast corner, Block 5715, Lot 55, Borough of Brooklyn.

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COMMUNITY BOARD #12BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to November 16, 2004, at 1:30 P.M., for continued hearing.

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.

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 December 7, 17-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Renee Kubie, owner.

SUBJECT - Application January 28, 2004 - under Z.R. §72-21 to permit the legalization of an enlargement in portions of the first and second floors, of a single family residence, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, also perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-631B and §23-45.

PREMISES AFFECTED - 2323 Avenue "S", northwest corner of East 24th Street, Block 6829, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Lyra Altman.

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 October 19, 2004, at 1:30 P.M., for decision, hearing closed.

134-04-BZ

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

SUBJECT - Application March 19, 2004 - under Z.R. §§72-22 and 1-05(e) to permit the proposed construction of a public esplanade between the building and bulkhead line, also the proposed

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

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 and Marc Esrig.

ACTION OF THE BOARD - Laid over to November 23, 2004, at 1:30 P.M., for continued hearing.

construction of an additional forty-seven residential units, located in an M3-1 zoning district, is contrary to a previous variance granted under Cal. No. 191-00-BZ.

PREMISES AFFECTED - 184 Kent Avenue, northwest corner of North Third Street, Block 2348, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Barbara Hair.

ACTION OF THE BOARD - Laid over to October 26, 2004, at 1:30 P.M., for continued hearing.

136-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Exxon Mobil Oil Corporation, owner.

SUBJECT - Application March 22, 2004 - under Z.R. §73-21 to permit the proposed redevelopment of gasoline service station, with an accessory convenience store, located in an C2-3 within an R-5 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 3132 Fort Hamilton Parkway, between McDonald Avenue and East Second Street, Block 5315, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12

APPEARANCES -

For Applicant: Janice Cahalane and Chris Tartaglia.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

MINUTES

ACTION OF THE BOARD - Laid over to October 26, 2004, at 1:30 P.M., for decision, hearing closed.

139-04-BZ

APPLICANT - Eric Palatnik, P.C., for Miriam Brecher, owner.
SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R2 zoning district, which does not comply with the zoning requirement for allowable floor area, open space and rear yard, is contrary to Z.R. §23-141 and §23-47.
PREMISES AFFECTED - 1259 East 28th Street, between Avenues "M" and "L", Block 7646, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

APPEARANCES -

For Applicant: Mitchell Ross.

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 October 5, 2004, at 1:30 P.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 5:20 P.M.

Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5
Negative:.....0

ACTION OF THE BOARD - Laid over to October 5, 2004, at 1:30 P.M., for decision, hearing closed.

162-04-BZ

APPLICANT - Agusta & Ross, for Ronald Nizza, owner.
SUBJECT - Application April 21, 2004 - under Z.R. §11-411 to permit the proposed reestablishment of an expired variance, previously granted under Cal.#147-52-BZ, which permitted a factory (specialty woodworking for custom forms and molds), in an R-4 zoning district.
PREMISES AFFECTED - 90-06 Pitkin Avenue, southwest corner of Linden Boulevard, Block 11401, Lot 1, Borough of Queens.

COMMUNITY BOARD #10