
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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New Case Filed Up to October 19, 2004

326-04-BZ B.BK. 6208/16 Strickland Avenue, northeast corner of Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn. Applic.#301780874. Proposed construction of a new synagogue on the subject location, to replace an existing one already located on the site, creates non-compliance with respect to floor area ratio, wall height, sky exposure plane, also the proposed number of parking spaces is less than minimum required, is contrary to Z.R. §24-111, §23-141, §24-521, §25-18 and §25-31.

COMMUNITY BOARD #18BK

327-04-BZ B.Q. 66-35 108th Street, between 66th Road and 67th Avenue, Block 2175, Lot 1, Borough of Queens. Applic. #401995828. Proposed enlargement to an existing community facility(school), which does not meet the floor area, front yard, height and setback requirements, is contrary to Z.R. §24-11, §24-34 and §24-521.

COMMUNITY BOARD #1Q

328-04-BZ B.BK. 110 Franklin Avenue, between Park and Myrtle Avenues, Block 1898, Lots 49 and 50, Borough of Brooklyn. N.B. #301792503. Proposed construction of a six story residential building, with twelve dwelling units, Use Group 2, located in an M1-1 zoning district, does not comply with zoning requirements for use, bulk and parking provisions, is contrary to Z.R. §42-00, §43-00 and §44-00.

COMMUNITY BOARD #3BK

329-04-A B.Q. 10-03 Channel Road, (aka 100th Place), west side, 33.94' south of 197th Avenue, Block 15475, Lot 26, Borough of Queens. Applic. #401970863. Proposed construction of a two story single family residence, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

330-04-BZY B.BX. 3220/28 Arlington Avenue and 3223 Netherland Avenue, 200' north of the intersection of 232nd Street, also Arlington and Netherland Avenues, Block 5788, Lots 78, 80, 84 and 117. N.B. #200859053-01. Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

331-04-BZ B.M. 26 Cortlandt Street, northeast corner of Dey Street, Block 63, Lots 3 and 6, Borough of Manhattan. Applic. #101013957. Proposed expansion of an existing mezzanine (department store), located in a C5-5LMSD zoning district, which exceeds the maximum floor area, is contrary to Z.R. §33-122.

COMMUNITY BOARD #1M

332-04-BZ B.BK. 1410/14 East 24th Street, between Avenues "N and O", Block 7677, Lots 33 and 34 (tentative 33), Borough of Brooklyn. Applic. #301598858. Proposed enlargement of a single family frame dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for open space, floor area and rear yard, is contrary to Z.R. §23-141(a) and §23-47.

COMMUNITY BOARD #14BK

333-04-BZY B.BX. 640 West 237th Street, block bounded by Henry Hudson Parkway, West 236th Street and Independence Avenue, Block 5903, Lots 283 (tentative), and 299 and 300 (tentative), Borough of The Bronx. N.B. #200876436-01. Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

334-04-BZ B.Q. 135-28 Roosevelt Avenue, between Prince and Main Streets, Block 5036, Lot 26(aka 25/26), Borough of Queens. N.B. #401746713. Proposed construction of a seven-story mixed-use building containing retail, general office and community facility space, which does not meet the requisite parking, loading, sky exposure plane and setback requirements, is contrary to Z.R. §36-21, §33-432 and §36-62.

COMMUNITY BOARD #7Q

335-04-BZ B.Q. 60-11 83rd Place, a/k/a 60-13 83rd Place, between Elliot and 60th Avenues, Block 2913, Tentative Lot 63, Borough of Queens. Applic. #401958832. Proposed erection of a three-story, three family dwelling, located in an R4 zoning district, which does not qualify under the Predominantly Built Up Regulations, is contrary to Z.R. §12-10.

COMMUNITY BOARD #5Q

CALENDAR

NOVEMBER 23, 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 23, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

151-02-BZ

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

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

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

COMMUNITY BOARD #7M

APPEALS CALENDAR

273-04-A

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

OWNER - Allen Stevenson School.

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

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

COMMUNITY BOARD #8M

268-04-BZ

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

SUBJECT - Application July 30, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence in an R-2 zoning district, which does not comply with the zoning

NOVEMBER 23, 2004, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, November 23, 2004, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

355-03-BZ

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

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

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

COMMUNITY BOARD #5Q

203-04-BZ

APPLICANT - Dennis D'Dellangelo, for Benjamin Epstein, owner.

SUBJECT - Application May 17, 2004 - under Z.R. §73-622 to permit the proposed horizontal enlargement to an existing detached one family dwelling, which creates non-compliance with respect to open space ratio and floor area ratio, is contrary to Z.R. §23-14.

PREMISES AFFECTED - 2801 Avenue "N", northeast corner of East 28th Street, Block 7664, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #14BK

204-04-BZ

APPLICANT - Dennis D'Dellangelo, for Simy Kofman, owner.

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

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

COMMUNITY BOARD #14BK

requirements for floor area ratio, open space ratio and side and rear yards, is contrary to Z.R. §23-461, §23-141 and §23-47.

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

COMMUNITY BOARD #14BK

CALENDAR

311-04-BZ

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

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

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

COMMUNITY BOARD #2SI

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, OCTOBER 19, 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, August 10, 2004, were approved as

printed in the Bulletin of August 19, 2004, Volume 89, No. 32-34.

SPECIAL ORDER CALENDAR

554-54-BZ

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

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SUBJECT - Application June 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 6201 Avenue U, Avenue U and Mill Avenue, Block 8405, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Janice Cahalane.

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, this application under Z.R §§72-01 and 72-22, for a waiver of the Rules of Practice and Procedure and an extension of time to obtain a Certificate of Occupancy for a gas station; and

WHEREAS, a public hearing was held on this application on September 28, 2004 after due notice by publication in *The City Record*, and then to decision on October 19, 2004; and

WHEREAS, Community Board 18, Brooklyn submitted a letter to the Board, stating that the property owner had abandoned the site, erected a make-shift fence and allowed garbage to accumulate; and

WHEREAS, the applicant has submitted invoices that indicate over \$25,000 spent during the last year to clean and maintain the site, including disposal of garbage, removal of weeds, removal of snow and ice and maintenance of a fence which was installed for security purposes; and

WHEREAS, the applicant also submitted photos showing the condition of the site; and

WHEREAS, the applicant states that construction will occur in the second quarter of 2005, and that construction will be completed and a new certificate of occupancy obtained by the end of 2005.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on April 13, 1966, so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a Certificate of Occupancy for

WHEREAS, this application is a request for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the variance, which expired on April 23, 1978; and

WHEREAS, a public hearing was held on this application on August 17, 2004, after due notice by publication in *The City Record*, with continued hearings on September 21, 2004, and then to decision on October 19, 2004; and

WHEREAS, Community Board No. 8, Manhattan, recommended approval of this application; and

WHEREAS, on April 23, 1968, the Board granted an application under the subject calendar number to permit the use of transient parking for the unused and surplus parking spaces in a multiple dwelling accessory garage; on the

an additional two years from the date of this resolution to expire on October 19, 2006; *on condition*;

THAT all fencing shall be maintained in good condition; THAT the premises shall be maintained free of debris and graffiti;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, October 19, 2004.

40-63-BZ

APPLICANT - Francis R. Angelino, Esq., for Park Hill Tenants Corp., owner; Majestic Car Park LLC, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which permitted transient parking in the unused and surplus spaces in an existing multiple dwelling accessory garage. PREMISES AFFECTED - 1199 Park Avenue, northeast corner of East 94th Street, Block 1525, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Francis R. Angelino.

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 -

same day, the Board also granted an appeal application under Calendar No. 41-63-A, pursuant to Section 60 of the Multiple Dwelling Law; and

WHEREAS, the subject garage is located on East 94th Street between Park and Lexington Avenues, and is in the cellar and sub-cellar levels of the multiple dwelling ("the Building") located at 1199 Park Avenue; and

WHEREAS, the applicant represents that at around the expiration date of the first 15 year term of the variance, the Building was being converted from a rental building to a cooperative corporation, and that the need to renew the variance was apparently not conveyed to the new owners when they took title in 1980; and

WHEREAS, the applicant asserts that the use and physical conditions of the garage have remained unchanged

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since the original grant, and that it was only upon a change in the operator of the garage that the expired variance was discovered; and

WHEREAS, the record indicates that at the time of the original grant neither the Board's resolution nor its approved drawings specified the number of parking spaces within the garage; and

WHEREAS, however, the current Certificate of Occupancy (No. 102441, issued in 1993), states the number of spaces as 31 in the sub-cellar and 28 in the cellar level, for a total of 59 spaces; and

WHEREAS, the applicant states that Z.R. §25-62, which provides that attended parking facilities must provide a minimum of 200 square feet of unobstructed standing or maneuvering area per space, allows 74 parking spaces in the subject garage, which has approximately 14,750 square feet of unobstructed standing or maneuvering area; and

WHEREAS, the Board has reviewed the evidence in the record and agrees with the Applicant's assertion that the maximum number of parking spaces was never specified by the previous Board grant and, therefore, the Board has no objection to an increase in the maximum number of parking spaces listed on the Certificate of Occupancy provided that the Department of Buildings ensures compliance with all applicable sections of the Zoning Resolution.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, and extends the term of the variance which expired on April 23, 1968, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten (10) years from October 19, 2004 expiring on October 19, 2014; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 5, 2004"- (3) sheets; and on further condition;

THAT the maximum number of parking spaces shall be 74;

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

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

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

THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-412, to request a waiver of the Rules of Practice and Procedure, and a re-opening to amend the resolution; and

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in *The City Record*, and then to decision on October 19, 2004; and

WHEREAS, Community Board No. 10, Queens, recommended approval of this application; and

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

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

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

THAT the layout of the parking garage shall be as approved by the Department of Buildings;

THAT appropriate notice of the parking space recapture rights of the residents of the building shall be given, including placement of signage in a conspicuous location within the garage;

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 #103582801)

Adopted by the Board of Standards and Appeals, October 19, 2004.

1018-65-BZ

APPLICANT - Sheldon Lobel, P.C., for Colin Development Corp., owner.

SUBJECT - Application June 8, 2004 - reopening for an amendment to the resolution to redevelop the existing gasoline service station and eliminate the automotive service bays and construction of a new convenience store.

PREMISES AFFECTED - 159-04 Cross Bay Boulevard, between 159th and 160th Avenues, Block 14013, Lot 64, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

WHEREAS, the premises is located on Cross Bay Boulevard, between 159th Street and 160th Street, Queens, on a lot split between C2-2/R3-1 and R2 zoning districts, and has a total lot area of 12,485 square feet; and

WHEREAS, the instant application seeks an amendment to redevelop the existing gasoline service station, through the removal of the old gasoline pumps, underground storage tanks and a 1,565 square foot accessory automotive service building, the installation of new gasoline pumps, underground storage tanks, and a canopy, construction of a 1,200 square foot convenience store with 600 square feet of sales area, and the provision of accessory parking spaces; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since March 30, 1954, when, under BSA Cal. No. 696-53-BZ, the Board granted a variance to permit the erection and maintenance of a gasoline service

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station, lubricatorium, car wash, motor vehicle repairs, storage and sale of accessories and office, and to permit the parking and storage of motor vehicles; and

WHEREAS, on December 1, 1954, the Board granted an amendment to the resolution, to allow an accessory building to be reduced in size; and

WHEREAS, on January 25, 1966, the Board granted another amendment of the resolution, to allow an enlargement of the existing accessory building; and

WHEREAS, on October 14, 1976, under BSA Cal. No. 258-75-BZ, an application was filed for a one story enlargement, which was withdrawn at the request of the applicant; and

WHEREAS, on September 6, 1988, under both BSA Cal. Nos. 1018-65-BZ and 144-88-BZ, the Board permitted additional amendments to the resolutions, allowing additional self-service pumps and installation of a fire suppression system, among other things; 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 Board has determined that the evidence in the record supports the finding required to be made under Z.R. §11-412.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, pursuant to Z.R. §11-412, so that as amended this portion of the resolution shall read: "To permit the redevelopment of the existing gasoline service station, through the removal of the old gasoline pumps, underground storage tanks and a 1,565 square foot accessory automotive service building, the installation of new gasoline pumps, underground storage tanks, and a canopy, construction of a 1,200 square foot convenience store with 600 square feet of sales area, and the provision of accessory parking spaces; *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 30, 2004'-(4) sheets; and *on further condition*;

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

221-88-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for North Shore University Hospital, owner; Central Parking System of New York, Inc., lessee.

SUBJECT - Application April 16, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired on December 6, 2003, to allow an open parking on the roof of an accessory parking garage, located in an R7-1 zoning district.

PREMISES AFFECTED - 102-01 66th Road, 102-14 66th Avenue, 66-06 103rd Street, Block 2131, Part of Lot 16, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

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

THAT there shall be no work on the engines of automobiles;

THAT there shall be no body repair, burning or welding performed on the premises;

THAT all curb cuts shall be as shown on BSA-approved plans;

THAT there shall be no sale of automobiles on the subject premises;

THAT all fencing and landscaping shall be installed and/or maintained in accordance with the BSA-approved plans;

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

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

THAT the 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 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 No. 401871854)

Adopted by the Board of Standards and Appeals, October 19, 2004.

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this application is a request for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the special permit, which expired on December 6, 2003; and

WHEREAS, a public hearing was held on this application on September 21, 2004, after due notice by publication in *The City Record*, and then to decision on October 19, 2004; and

WHEREAS, the Queens Borough President and Community Board No. 6, Queens, recommend approval of this application; and

WHEREAS, on December 6, 1988, the Board granted a special permit under the subject calendar number to allow

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for open parking on the roof of an accessory parking garage for a proprietary hospital; and

WHEREAS, on December 14, 1993, the Board reopened and amended its resolution to extend the term of the special permit for an additional term of ten years from December 6, 1993; and

WHEREAS, the applicant represents that the subject garage has, for the last 15 years, operated in accordance with the terms and conditions of the Board's prior resolutions.

Therefore it is Resolved that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the resolution, and extends the term of the special permit, which expired on December 6, 2003, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the special permit for an additional ten (10) years from December 6, 2003 expiring on December 6, 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 April 16, 2004"-(1) sheets and *on further condition*;

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

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 401820464)

WHEREAS, Community Board No. 11, Queens, recommends approval of this application; and

WHEREAS, the instant application seeks to extend the term of the variance for a period of ten years and amend the previous resolution by allowing a minor reconfiguration of the sales area, private office and utility room, in order to facilitate the sale of convenience store items, as well as to allow the placement of a container for storage and refrigeration of soft drinks; and

WHEREAS, the Board has exercised jurisdiction over the subject property since July 9, 1957, when it granted a variance under BSA Cal. No. 721-41-BZ, to permit a gasoline service station at the subject premises in a business use district for a term of ten years; on September 12, 1950, the Board extended the term of the variance for fifteen years; and

WHEREAS, on July 14, 1964, the Board approved an amendment allowing the addition of gasoline storage tanks and an extension of the term of this variance for a ten year term on September 28, 1965; and

Adopted by the Board of Standards and Appeals, October 19, 2004.

67-91-BZ

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for HNF Realty LLC, owner; Cumberland Farms, Inc., lessee. SUBJECT - Application March 16, 2004 and updated June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 17, 2002 and for an amendment to allow the sale of convenience store items in place of accessory gasoline service station items.

PREMISES AFFECTED - 260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, northeast corner of the intersection with Little Neck Parkway, Block 8274, Lots 134, 135, Borough of Queens.

COMMUNITY BOARD #11Q

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 -

WHEREAS, this is an application under Z.R. §§ 11-411 and 11-412, for a waiver of the Rules of Practice and Procedure, a re-opening and an amendment to the resolution, and an extension of the term of the variance that expired on March 17, 2002; and

WHEREAS, a public hearing was held on this application on August 17, 2004, after due notice by publication in the *City Record*, with continued hearings on September 21, 2004 and then to decision on October 19, 2004; and

WHEREAS, on May 20, 1969, under BSA Cal. No. 66-69-BZ, the Board granted an application to amend the variance to allow an enlargement in lot area and floor area of the existing automotive service station; the term of this variance was extended for a ten year term by a resolution adopted on October 28, 1975; and

WHEREAS, on February 15, 1984, the Board adopted two resolutions under BSA Cal. Nos. 1058-83-A and 66-69-BZ, to permit the erection of a 28' x 48' canopy island for self-service devices, the installation of new self-service dispensers and a change of the office and sales area of the accessory building to an attendant's office; and

WHEREAS, the applicant states that the ownership of the property changed in 1986 and the new owner failed to apply to the Board to renew the variance upon its expiration on October 28, 1985; and

WHEREAS, in 1991, the new owner applied to the Board to renew the variance under BSA Cal. No 7-91-BZ; and on March 17, 1992, the Board adopted a resolution, granting a special permit pursuant to Z.R. § 11-411 for the

MINUTES

operation of a gasoline station for a ten (10) year period; 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 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 reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit a minor reconfiguration of the sales area, private office and utility room to facilitate the sale of convenience store items, and the placement of a container for storage and refrigeration of soft drinks and to extend the term of the variance for a term of ten years, from March 17, 2002 to expire on March 17, 2012; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received March 16, 2004'-(3) sheets; and 'Received September 7, 2004'-(2) sheets; and *on further condition*;

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

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

THAT all signage shall conform to applicable zoning district requirements;

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

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

THAT this special permit is limited to a term of ten (10) years from the prior special permit's expiration, to expire on March 17, 2012;

THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-411, for a re-opening and an extension of the term of the variance, which expired on June 28, 2004; and

WHEREAS, a public hearing was held on this application on September 28, 2004, after due notice by publication in *The City Record*, and then to decision on October 19, 2004; and

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

WHEREAS, the premises is located on the northeast corner formed by the intersection of East Tremont Avenue and Ericson Place; and

WHEREAS, on January 12, 1954, under BSA Cal. No. 247-35-BZ, Vol. II, the Board granted, for a term of fifteen years, an application to permit the premises to be occupied as a eating and drinking establishment, on condition that the owner would acquire or lease, for the term of the variance, the site on the east side of Ericson Place for the parking of cars and motor vehicles patronizing the establishment; and

WHEREAS, on January 4, 1955, the grant was

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 #401822550)

Adopted by the Board of Standards and Appeals, October 19, 2004.

88-92-BZ

APPLICANT - Kenneth H. Koons, Architect, for 3007 Enterprise, Inc., owner.

SUBJECT - Application April 9, 2004 - reopening for an extension of term of variance which expired June 28, 2004 for an existing Diner which was enlarged in 1994 under Z.R. Section 11-411.

PREMISES AFFECTED - 3007 East Tremont Avenue, northeast corner Ericson Place, Block 5381, Lot 38, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES -

For Applicant: Carl A. Sulfaro.

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

amended to permit a cellar under the building; and

WHEREAS, on November 26, 1968 and January 16, 1979, the Board granted extensions of term for ten years each; and

WHEREAS, on July 8, 1980, the Board amended the grant, to omit the required off-site parking on the east side of Ericson Place; and

WHEREAS, on May 9, 1989, the Board granted an extension of term for ten years from January 16, 1989; and

WHEREAS, on July 26, 1994, under BSA Cal. No. 88-92-BZ, the Board granted an application under Z.R. Sections 11-411 and 11-412, to permit a one-story enlargement to the existing establishment and an extension of the term for ten years to expire June 28, 2004; 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, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §11-411.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, said

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resolution having been adopted on June 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 ten years from June 28, 2004, expiring on June 28, 2014; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked 'Received April 9, 2004'-(4) sheets and *on further condition*;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, October 19, 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 APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to December 7, 2004, at 10 A.M., for continued hearing.

780-56-BZ

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

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

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

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Hiram Rothkrug.

ACTION OF THE BOARD - Laid over to November 23, 2004, at 10 A.M., for continued hearing.

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.

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 November 9, 2004, at 10 A.M., for decision, hearing closed.

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 #1BK

949-57-BZ

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

SUBJECT - Application February 9, 2004 - reopening for an extension of term of variance which expires October 29, 2004 and for an amendment to authorize the legalization of the conversion of the building to an accessory convenience store.

PREMISES AFFECTED - 2100 Williamsbridge Road, northeast corner of Williamsbridge Road and Lydig Avenue, Block 4310, Lot 30, Borough of The Bronx.

COMMUNITY BOARD #11BX

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 November 9, 2004, at 10 A.M., for decision, hearing closed.

799-62-BZ

MINUTES

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 #6M

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 November 9, 2004, at 10 A.M., for decision, hearing closed.

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

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 and Robert Shelala.

ACTION OF THE BOARD - Laid over to December 7, 2004, at 10 A.M., dismissal calendar, for continued hearing.

236-98-BZ

APPLICANT - Deidre A. Carson, Esq., Greenberg Traurig, LLP, for Anthony Fericola, 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 and 36, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

Applicant:

THE VOTE TO CLOSE HEARING -

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

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: Janice Cahalane.

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

283-90-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Mary Ann McGowan and Ali Alisedi.

ACTION OF THE BOARD - Laid over to November 16, 2004, at 10:00 A.M., for continued hearing.

Commissioner Chin.....5
Negative:.....0

ACTION OF THE BOARD - Laid over to November 9, 2004, at 10 A.M., for decision, hearing closed.

256-01-BZ

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

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

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

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD - Laid over to November 23, 2004, at 10 A.M., for continued hearing.

383-03-A

APPLICANT - Zygmunt Staszewski, P.E., for Cammeby's Management Company, LLC, owner; Barry Pincus, lessee.

SUBJECT - Application December 9, 2003 - Proposed retention of

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the existing 10-story atrium and open access stair unenclosed, which is contrary to the "Old Code", Art.26-209(6.4.1.9)(2), as part of a "residential conversion" of an existing Commercial Class "E" building to a residential J-2 occupancy.

PREMISES AFFECTED - 5 Beekman Street, southwest corner of Nassau Street, southeast corner of Theater Alley, Block 90, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Caroline Harris, Zygmunt Staszewski, Gene Kaufman and Romona Franklin, Department of Buildings.

ACTION OF THE BOARD - Appeal granted on condition.

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

WHEREAS, this is an administrative appeal, filed pursuant to section 666 of the New York City Charter, which requests relief from sections 26-238 of the old New York City Building Code (the "Old Code"), with respect to enclosure of a multi-level open shaft, and sections 277(9)(B)(i) and 277(9)(C) of the Multiple Dwelling Law (the "MDL"), with respect to proper egress through enclosed hallways and stairwells; and

WHEREAS, the subject building (the "Building") is known as the Temple Court Building and Annex, and was built in 1881-1890 with brick, stone and terra cotta above a two-story granite base; and

WHEREAS, appellant states: (1) that the exterior of the Building was designated as a Landmark on February 10, 1998; and (2) that it was designed under the Old Code and is currently not sprinklered; and

WHEREAS, the Building features a full-height interior skylighted atrium on one side (the "Atrium Side"), and a smaller open courtyard on the other side (the "Courtyard Side"); and

WHEREAS, there are ten stories on the Courtyard Side and nine stories and three penthouse levels on the Atrium Side; and

WHEREAS, the Building was designed for commercial use, and has historically been occupied commercially; and

WHEREAS, the overall development proposal is to retain retail on the first floor, with 128 residential rental apartments to be developed on the upper floors; and

WHEREAS, appellant represents that apartments may be combined in the future, resulting in reduction of the number of doorways leading into the atrium and/or enclosed corridors; and

WHEREAS, appellant seeks to retain the existing 10-story atrium and open access stair unenclosed; and

WHEREAS, section 26-238 of the Old Code requires

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 11, 2003, acting on Department of Buildings Application No. 103497823, reads, in pertinent part:

"Proposed egress from apartments via a multi-level open shaft (atrium) is contrary to Section 277(9)(B)(I) M.D.L.

Multi-level opening of shaft is contrary to Section 26-638 . . . (Old Code) [and] should be enclosed with materials having a three hour rating.

Atrium does not comply with M.D.L. Section 277(9)c. Provide access through an unenclosed corridor."; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due publication in The City Record, with a continued hearing on October 5, and then to decision on October 19, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Joel Miele, and the Board's appeals examiner; and

that all multi-level shafts must be enclosed with three-hour fire resistive rated construction; and

WHEREAS, section 277(9)(B)(i) of the MDL requires an enclosed hallway and two independently enclosed stairs in a fireproof building; and

WHEREAS, section 277(9)(C) of the MDL provides that no more than two dwelling units shall open directly to a stair without an intervening enclosed hallway; and

WHEREAS, the Old Code objection originally applied to both sides of the Building, but, through a reconsideration granted by the Deputy Commissioner of the Department of Buildings on September 13, 2004, which removed the referenced and certain other Old Code objections related to the Courtyard Side, now only applies to the Atrium Side; and

WHEREAS, however, DOB, who appeared in opposition to this appeal, notes that the objection based upon Old Code §26-238 has not been waived, as it still applies to the Courtyard Side; and

WHEREAS, DOB states that the referenced objections pertain to appellant's proposal in the following ways: (1) the atrium, consisting of a series of more than two floor openings in successive floors, is a shaft and must be enclosed with three-hour fire resistive rated construction materials per Old Code §C26-638; according to the revised plans, the atrium remains unenclosed and thus violates Old Code §C26-638; (2) the central hallway to the stairs on the second through ninth floors still abuts the ten-story atrium without a fire resistive-rated assembly separating the hallways from the atrium; therefore, the hallways abutting the atrium on the second through ninth floors are unenclosed and do not comply with MDL §277(9)(b)(1); and (3) six apartment units on the second through eighth floors and four apartment units on the ninth floor open directly onto the central unenclosed hallway abutting the atrium in violation of

MINUTES

MDL §277(9)(c); and

WHEREAS, appellant does not challenge the application of the referenced objections to its proposal, but rather argues that strict application of the Old Code and MDL requirements causes practical difficulties such that a waiver of strict application by the Board is warranted; and

WHEREAS, as discussed below and in various submissions made to the Board, appellant will provide various fire safety measures in lieu of strict compliance, and argues that such measures will provide for the safety of the proposed residential occupants in the event of a fire or other emergency; and

WHEREAS, appellant states that the practical difficulties of complying with enclosing and eliminating the atrium are significant from a cost and historic preservation perspective; and

WHEREAS, appellant notes that the cost of the entire renovation and rehabilitation of the Building is \$20 million, and that enclosing the atrium from the second floor to the top, creating inner corridors, theoretically could be done in one of two ways; and

WHEREAS, both of the stairwells will discharge to the street via enclosed fire rated passageways on the first floor, and the open staircase inside the atrium and the first floor of the atrium itself is not a required means of egress for upper floors; and

WHEREAS, appellant will provide all legally required signage in the atrium; and

WHEREAS, appellant will provide area smoke detectors around the atrium on each floor, spaced in accordance with New Building Code Reference Standard ("RS") 17-5 (NFPA 72/1993), and, in addition, will install two smoke beam detectors at the top of the atrium; and

WHEREAS, all detectors will be tested in accordance with NFPA 72/2002 National Fire Alarm Code; and

WHEREAS, all detectors will be connected to a new smoke detection/sprinkler alarm panel to be located in the 1st floor lobby; and

WHEREAS, appellant will also install low voltage addressable system smoke detectors with sounder bases in all apartments in the building; and

WHEREAS, appellant also proposes a detection/sprinkler alarm panel to be located in the 1st floor lobby, which will allow the 24-hour concierge to verify the alarm and call the Fire Department if necessary; and

WHEREAS, appellant states that such arrangement will provide early warning in case of an apartment fire; and

WHEREAS, appellant states that a new combination sprinkler/standpipe riser will be installed in the unenclosed staircase, in addition to the riser in one of the enclosed staircases, and that a fire hose cabinet will be provided as required for high rise residential buildings, to be located at the concierge desk in lobby; and

WHEREAS, appellant states that sprinkler requirements will be complied with through provision of a new 500 GPM fire pump and a jockey pump; and

WHEREAS, quick response extended coverage horizontal sprinkler heads (Reliable EC-9) will be utilized

WHEREAS, one of the ways would involve enclosing the landings and walkways in fire-rated glass that would cost in excess of \$5 million, which the applicant represents would be prohibitively expensive; and

WHEREAS, the other way is to enclose the atrium in fire rated sheetrock with small glass openings, which would cost approximately \$1 million, but which, according to the applicant, would cause the loss of visual access to a splendid historic interior, and consequently devalue the entire historic renovation aesthetically, decrease the value of the residential building, significantly reduce the price for the residential space, and thus cause practical difficulties for the project; and

WHEREAS, appellant notes that the existing atrium has horizontal dimensions of 40'-8 2" x 35'-5 2" for a total of 1,443 square feet, which exceeds the minimum dimension of 1,200 square feet as required by the currently applicable Building Code (the "New Building Code"); and

WHEREAS, appellant proposes to construct two new, enclosed fire rated stairs meeting the egress requirements for the residential load of the building; and throughout the residential areas of the building, including all apartments; horizontal, wall-mounted extended coverage sprinkler heads will be able to dispense water across the atrium; and

WHEREAS, in addition, the atrium opening will be provided with sprinkler heads at 6'-0" spacing; and

WHEREAS, exposed structural steel brackets supporting the atrium balconies will be provided with additional sprinkler heads to protect them from heat; and

WHEREAS, appellant states that sprinkler alarm waterflow switches and valve tamper switches will be installed on each floor and connected to the new smoke detection/sprinkler alarm panel to be located in the 1st floor lobby, and fire pump operation, pump failure and phase reversal will also be monitored by this smoke detection/sprinkler alarm panel; and

WHEREAS, appellant proposes that the panel will transmit all alarms, supervisory and trouble conditions to a FDNY approved Central Station; and

WHEREAS, appellant states that smoke purge requirements will be complied with through provision of a mechanical smoke purge system (exhaust and make-up fan) and manually released spring-loaded skylights; and

WHEREAS, in response to Board concerns, appellant amended its proposal in the following manner: (1) the total fan size was increased to 25,000 CFM, which will translate to 9.4 air changes per hour; (2) the purge system design was modified to include the third smoke intake at the top of the atrium; and (3) the entire smoke purge system, including the fans and controls, is now connected to the emergency power system, which will allow for uninterrupted operation of the smoke purge during a blackout; and

WHEREAS, appellant states that the smoke exhaust system will be activated by area smoke detectors located in the atrium, smoke beam detectors at the top of the atrium, duct smoke detectors on all HVAC units serving the atrium, sprinkler waterflow switches on sprinkler branches serving

MINUTES

the atrium, as well as manually from the smoke purge panel in the 1st floor lobby; and

WHEREAS, activation of the smoke purge system will be preceded by release of all self-closing smoke-stop doors, which will separate the atrium from the egress corridors; and

WHEREAS, initial acceptance testing will be conducted in accordance with NFPA 92B "Guide for Smoke Management Systems in Malls, Atria and Large Areas", 2000 edition; and

WHEREAS, subsequent smoke exhaust system tests will be conducted monthly, as per a memorandum submitted by Cosentini Associates, dated 9/1/2004, which is part of the record; and

WHEREAS, a log book will be maintained of all tests; said log book shall comply with all legal requirements; and

WHEREAS, appellant states that it will install a one-way

WHEREAS, all emergency power systems will be tested in accordance with the NYC Building Code; and

WHEREAS, appellant states that a back-up gravity exhaust system will be provided by means of skylights located at the top of the atrium, which will be manually operable from the smoke purge panel and which will also feature fusible links; and

WHEREAS, at the request of the Board, smoke-stop doors to separate the atrium from the corridors leading to the two enclosed staircases on each floor have been added; and

WHEREAS, these doors will swing only in towards the Courtyard Side of the Building; and

WHEREAS, appellant states that: (1) these doors will be self-closing and normally held open by electromagnetic door holders connected to the fire alarm system; (2) activation of any automatic smoke or heat detection devices in the building (including sprinkler system activation) will release all the self-closing doors, which will then latch to create smoke barriers; and (3) door latching shall be adequate to prevent the doors from being opened under the pressures that may be created by hot smoke in the atrium area or in the enclosed corridors; and

WHEREAS, all smoke-stop door releases will be tested in accordance with NFPA 72/2002 National Fire Alarm Code; and

WHEREAS, also at the request of the Board, an enclosed, appropriately fire-rated corridor through a portion of the courtyard will be constructed, which will further facilitate access from all units of the Courtyard Side to the two newly created egress stairwells; and

WHEREAS, appellant has prepared a comparison of the proposed life-safety features to be installed against those required by the New Code, which shows that many requirements of the New Code are exceeded by the proposed conditions; and

WHEREAS, at the request of the Board, appellant has shown other examples of open atriums in building in New York City that have been approved, and which contain comparable fire safety features as those proposed; and

WHEREAS, the Fire Department made a submission dated August 17, 2004, and indicated that it has no

voice paging system for notification of the occupants and conducting effective evacuation, if necessary, and that this system will consist of a microphone and amplifiers to be built into the sprinkler/smoke detection panel in the 1st floor lobby, two loudspeakers per floor in the atrium area on floors 2 - 10, two loudspeakers per floor in the enclosed corridors near the staircase entrances on each floor, speakers in all staircases (every 4 floors) and speakers in each apartment for notification of the occupants; and

WHEREAS, this system will be tested semi-annually and a log book, which will comply with all legal requirements, will be maintained to indicate such testing; and

WHEREAS, appellant states that emergency power requirements will be met through provision of a diesel emergency generator sized to power all fire safety systems, including the emergency lighting; and

objection to the fire safety scheme and individual components as proposed for the Building by appellant; and

WHEREAS, the Board has reviewed the fire safety measures proposed by appellant and finds that such measures, when considered in the aggregate, will afford the proposed residential occupants a sufficient degree of safety should a fire or other emergency occur; and

WHEREAS, therefore, the Board finds that appellant has proven that there are practical difficulties in the way of carrying out the strict letter of the law and has proposed measures sufficient to address the fire safety concerns inherent to the site and the proposed use, such that the spirit of the law shall be observed, public safety secured, and substantial justice done; and

WHEREAS, accordingly, the Board finds that waiver of the above-mentioned Old Code and MDL provisions is warranted, upon certain conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals, pursuant to its authority under Section 666 of the Charter of the City of New York, waives the objections of the Department of Buildings as set forth above, and approves the plans labeled A203, A204, A205, A206, A207, A208 and A209, marked "Received October 15, 2004"-(7) sheets, and plan A301, marked "Received October 19, 2004"-B (1) sheet, on condition:

THAT the following fire safety measures shall be installed and maintained:

- two new, enclosed 2-hour fire rated stairs meeting the egress requirements for the residential load of the building;
- legally required signage in the atrium;
- area smoke detectors around the atrium on each floor, spaced in accordance with RS 17-5 (NFPA 72/1993);
- two smoke beam detectors at the top of the atrium;
- a smoke detection/sprinkler alarm panel to be located in the 1st floor lobby, which will monitor fire pump running, pump failure and phase reversal, as well as transmit all alarms, supervisory and trouble conditions to a FDNY

MINUTES

- approved Central Station;
- a low voltage addressable system smoke detectors with sounder bases in all apartments in the building;
- a new combination sprinkler/standpipe riser to be installed in the unenclosed staircase;
- a fire hose cabinet to be provided as required for high rise residential buildings, located at the concierge desk in lobby;
- a 500 GPM fire pump and a jockey pump;
- quick response extended coverage horizontal sprinkler alarm waterflow switches and valve tamper switches, to be installed on each floor and connected to the new smoke detection/sprinkler alarm panel;
- a mechanical smoke purge system (exhaust and make-up fan) and manually released spring-loaded skylights, with a total fan size of 25,000 CFM, three smoke intakes at the top of the atrium, and with connection to the emergency power system;
- area smoke detectors at the top of the atrium, smoke beam detectors at the top of the atrium, duct smoke detectors on all HVAC units serving the atrium, sprinkler waterflow switches on sprinkler branches serving the atrium, as well as manual operation of the switches from the smoke purge panel in the 1st floor lobby;
- a one-way voice paging system for notification of the occupants and conducting effective evacuation, consisting of a microphone and amplifiers to be built into the sprinkler/smoke detection panel in the 1st floor lobby, two loudspeakers per floor in the atrium area on floors 2 - 10, two loudspeakers per floor in the enclosed corridors near the staircase entrances on each floor, speakers in all staircases (every 4 floors) and speakers in each apartment;
- a diesel emergency generator sized to power all fire safety systems, including the emergency lighting;
- a back-up gravity exhaust system, to be provided by means of skylights located at the top of the atrium, which will also be manually operable from the smoke purge panel and also will feature fusible links;
- smoke-stop doors to separate the atrium from the corridors leading to the two enclosed staircases on each floor have been added; and
- an enclosed, appropriately fire-rated corridor through a portion of the courtyard.

THAT testing of certain fire protection systems shall occur as follows:

- initial acceptance of the smoke purge system shall be conducted in accordance with NFPA 92B "Guide for Smoke Management Systems in Malls, Atria and Large Areas", 2000 edition;

- sprinkler heads (Reliable EC-9) to be sited throughout the residential areas of the building, including all apartments;
- horizontal, wall-mounted extended coverage sprinkler heads will be able to dispense water across the atrium;
- sprinkler heads at 6'-0" spacing at the atrium opening;
- exposed structural steel brackets supporting the atrium balconies, to be provided with additional sprinkler heads;
- subsequent smoke exhaust system tests shall be conducted monthly, as per a memorandum submitted by Cosentini Associates, dated 9/1/2004, which is part of the BSA record;
- a log book of all testing shall be maintained;
- all detectors shall be tested in accordance with NFPA 72/2002 National Fire Alarm Code;
- the one-way voice paging system shall be tested semi-annually and a log book (which will comply with all legal requirements) will be maintained to indicate such testing;
- all emergency power systems shall be tested in accordance with the New Building Code; and
- all smoke-stop door releases shall be tested in accordance with NFPA 72/2002 National Fire Alarm Code.

THAT apartment units may be combined without further review by the BSA if there is no increase in the amount of units doors into the atrium or courtyard;

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

THAT all of the above-mentioned components of the various fire protection systems shall comply with all applicable legal provisions and materials acceptance protocol, as determined and approved by the Department of Buildings;

THAT notwithstanding the above-mentioned testing regime, any and all additional testing as required by the New Building Code or any other applicable law, rule or regulation, as determined by the Department of Buildings, shall be complied with;

THAT notwithstanding the above-mentioned safety measures, any and all additional safety measures as required by the New Building Code or any other applicable law, rule or regulation, as determined by the Department of Buildings, shall be complied with;

THAT the Board reserves its right to impose further conditions, based upon its own initiative or upon the recommendation of any governmental agency having jurisdiction over the subject building;

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

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laws, including those that pertain to fire safety, 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, October 19, 2004.

213-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Sheila Schaberich, lessee.

APPEARANCES -

For Applicant: Catherine O'Reilly.

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 May 13, 2004, acting on Department of Buildings Application No. 401820712, reads in pertinent part:

"A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction 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.

A2- The private disposal system is in the bed of a private service road which serves as a street which is contrary to Department of Buildings Policy;" and

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; and

WHEREAS, by letter dated July 15, 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.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated May 13, 2004 acting on Department of Buildings Application No. 401820712, 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 October 4, 2004"- (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *and on further*

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 40 Queens Walk, west side, 203.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

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; 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, October 19, 2004.

214-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Gregory Allen, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, has a private disposal system in the bed of a service road and is located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 18 Essex Walk, north west corner of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Catherine O'Reilly.

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 May 13, 2004 acting on Department of Buildings Application No. 401816558 which reads in pertinent part:

"A1- The site is located partially in the bed of a mapped street therefore no permit of Certificate of Occupancy can be issued as per Art. 3. Sect 35 of the General City Law.

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A2- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; and

WHEREAS, by letter dated July 15, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 15, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 16, 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.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated May 13, 2004 acting on Department of Buildings Application No. 401816558 is modified under the power vested in the Board by Sections 35 and 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 October 4, 2004" - (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *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; 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, October 5, 2004.

215-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Michael Behringer, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 4 Jamaica Walk, west side, 30' south of

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 private disposal system is in the bed of a mapped street is contrary to Department of Buildings Policy."; and

Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Catherine O'Reilly.

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 May 13, 2004, acting on Department of Buildings Application No. 401816549, reads in pertinent part:

"A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction 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.

A2- The private disposal system is in the bed of a private service road which serves as a street which is contrary to Department of Buildings Policy;" and

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; and

WHEREAS, by letter dated July 15, 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.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated May 13, 2004 acting on Department of Buildings Application No. 401816549, 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 October 4, 2004"- (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *and on further*

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condition:

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

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

Adopted by the Board of Standards and Appeals, October 5, 2004.

216-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; John Whelan, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 14 Essex Walk, west side, 55.80' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Catherine O'Reilly.

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 May 13, 2004, acting on Department of Buildings Application No. 401820909 which reads in pertinent part:

"A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction 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.

A2- The private disposal system is in the bed of a private service road which serves as a street which is contrary to Department of Buildings Policy;" and

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; and

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

WHEREAS, by letter dated July 15, 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.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated May 13, 2004 acting on Department of Buildings Application No. 401820909 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 October 4, 2004"-(1) sheet; and that the proposal comply with all applicable zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *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; 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, October 5, 2004.

217-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Kathryn Byrnes, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street and located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 464 Seabreeze Walk, east side, 30.71' east of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Catherine O'Reilly.

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

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Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 13, 2004 acting on Department of Buildings Application No. 401805490 which reads in pertinent part:

“A1- The site & building are located partially in the bed of a mapped street therefore no permit of Certificate of Occupancy can be issued as per Art. 3. Sect 35 of the General City Law.

A2- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction 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

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; and

WHEREAS, by letter dated July 15, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 15, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 16, 2004, the Department of Transportation has reviewed the above project and states that the improvement of Rockaway Point Boulevard to the full mapped width, which would involve the taking of a portion of the applicant’s property (Block 16350, Lot 400) is not presently included in DOT’s Capital Improvement Program and therefore has no objection; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated May 13, 2004 acting on Department of Buildings Application No. 401805490 is modified under the power vested in the Board by Sections 35 and 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 October 4, 2004”- (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *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; 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, October 5, 2004.

218-04-A

APPLICANT - The Agusta Group, for Tanya Tang, owner.

SUBJECT - Application May 26, 2004 - Proposed construction of a four story and cellar eight family residential building, which is located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 100-23 39th Avenue, north side, between 100 and 102nd Streets, Block 1767, Lot 60, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES - None.

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 July 14, 2004 acting on Department of Buildings Application No. 401862542 which reads in pertinent part:

“Respectfully request to waive objection #1- proposed building is within bed of a mapped street contrary to GCL 35”; and

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; and

WHEREAS, by letter dated July 15, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 15, 2004, the Department of Environmental Protection states that it has reviewed the above project and has requested that the applicant to amend the drainage plan to DEP’s satisfaction prior to the issuance of a building permit by the Department of Buildings; and

WHEREAS, by letter dated August 16, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 14, 2004 acting on Department of Buildings Application No. 401862542 is modified under the power vested in the Board by Sections 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 October 5, 2004" (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *and on further condition*:

THAT no building permit be issued by the Department of Buildings unless and until the Department of Environmental Protection has approved the amendment to the drainage plan, and proof of said approval is submitted 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

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, October 5, 2004.

263-03-A

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings' final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5' east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Romona Franklin, Department of Buildings.

ACTION OF THE BOARD - Laid over to without date, at 10 A.M., for continued hearing.

15-04-A

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Fred Corona, owner.

SUBJECT - Application January 21, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 8 Reynolds Street, south side, 100' west of St. Mary's Avenue, Block 2989, Tentatively Lot 28, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to November 9, 2004, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 11:25 A.M.

REGULAR MEETING TUESDAY AFTERNOON, OCTOBER 19, 2004 2:00 P.M.

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

ZONING CALENDAR

183-03-BZ

CEQR #03-BSA-199K

APPLICANT - Agusta & Ross, for North Berry Capital Group, LLC, owner.

SUBJECT - Application June 3, 2003 - under Z.R. §72-21 to permit the proposed construction of a four-story and cellar multiple dwelling (Use Group 2), to contain twenty-seven residential units and underground accessory parking for fourteen vehicles, located in an M1-2 zoning district, which is contrary to Z.R. Section 42-10.

PREMISES AFFECTED - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

COMMUNITY BOARD #1BK

THE VOTE TO GRANT -

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

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Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 8, 2003, acting on Department of Buildings Application No. 301542141, reads:

“Proposed multiple dwelling (Use Group 2) is contrary to Z.R. 42-10. There are no applicable bulk, parking, or yard regulations for a new residential development in a manufacturing district. Must be referred to the B.S.A.”; and

WHEREAS, a public hearing was held on this application on January 13, 2004 after due publication in The City Record, with continued hearings on March 2, 2004, May 25, 2004, July 13, 2004, August 17, 2004, and September 28, 2004, and then to decision on October 19, 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 the proposed construction of a four-story and cellar multiple dwelling (Use Group 2), to contain twenty-seven residential units and underground accessory parking for fourteen vehicles, located in an M1-2 zoning district, which is contrary to Z.R. §42-10; and

WHEREAS, Community Board 1, Brooklyn recommended disapproval of this application although its ULURP Committee recommended approval; and

WHEREAS, the subject site is a corner lot located at the intersection of North 7th and Berry Streets in Brooklyn, comprised of two tax lots (lot numbers 18 and 19) with 100 feet of frontage along Berry Street and 150 feet of frontage along North 7th Street, and a total lot area of 15,840 sq. ft.; and

WHEREAS, the record indicates that the site is improved with a one-story structure, used in the past as a food processing facility, which was erected on lot 19 in 1970 and which interconnects with a pre-existing former garage located on lot 18; and

WHEREAS, the proposal entails the demolition of the existing now-vacant structure and the construction of a multiple dwelling; and

WHEREAS, the subject application originally contemplated the construction of a six-story and cellar residential building with a Floor Area Ratio (“FAR”) of 3.25, to contain forty-three residential units, but, in response to Board and community concerns, has now been modified to a proposal for a four-story and cellar residential building with an F.A.R. of 2.0, to contain twenty-seven residential units, with fourteen accessory parking spaces on the cellar level; and

WHEREAS, the Board finds that the aforementioned unique physical conditions - namely, that the subject site is burdened with a functionally obsolete structure which cannot be reused and must be demolished, that the subway tunnel is located less than 10 feet from the site, and that the site has a history of residential use - when considered in the aggregate, create unnecessary hardship and practical

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the subject site is burdened with a functionally obsolete structure; (2) the site is in close proximity to an underground subway tunnel; and (3) the site is irregularly shaped and surrounded by residential uses; and

WHEREAS, the applicant represents that existing building is functionally obsolete, as its design was limited to food processing, with much attention and space given to refrigeration aspects and small compartmentalization of the spaces for food handling and storage; and

WHEREAS, the applicant states that after approximately a decade of use by the company which designed and constructed the building, both the company and the building fell into decline; and

WHEREAS, the record indicates that the exiting building is noncompliant with both modern Food and Drug Administration requirements for its intended use, as well as New York City Building Code requirements; and

WHEREAS, therefore, the applicant asserts that the building - with its host of design and other deficiencies - is unsuitable for any modern industrial use; and

WHEREAS, the applicant has provided subway location and survey plans obtained from the NYC Metropolitan Transportation Authority, which demonstrate that the site is located less than 10 feet from the “L” train line; and

WHEREAS, the applicant represents that the proximity to the subway tunnel distinguishes this property from others in the subject M1-2 portion of the submitted radius map, because all the other sites have already been developed with existing apartment buildings or otherwise active uses, leaving the subject site as the only remaining “soft” site in the vicinity; and

WHEREAS, the applicant has provided an additional engineering analysis which documents the significant additional expenditures necessary for foundation work due to the proximity of the subway tunnel; and

WHEREAS, the applicant notes the historical use of the site for residential uses: the subject site was developed from prior to the turn-of-the-century until the early 1960’s with eight multiple dwellings; and

WHEREAS, the applicant further notes that the subject site is located across both Berry and North 7th Street from R6 (M1-2) zoning, and that the majority of the uses immediately surrounding the site are residential four or five-story multiple dwellings; and

difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant states that there have been no economically acceptable offers by conforming users of the site, despite being actively marketed by local brokers; and

WHEREAS, the applicant has submitted a revised

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feasibility study, reflecting the increased cost of foundation work on the site owing to the proximity to the subway tunnel, which demonstrates that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the Board finds the this feasibility study credible and sufficient; and

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

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood and is compatible with the mixed-use commercial/residential uses prevalent in the area; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that residential use of the site is appropriate given the context of the neighborhood; and

WHEREAS, specifically, the Board observes that the site is adjacent to an R6 (M1-2) residential zoning district, and that there are numerous residential uses surrounding the subject site; and

WHEREAS, the proposed bulk complies with the parameters of the proposed rezoning of the area, as promulgated by the Department of City Planning; and

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

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

WHEREAS, after accepting guidance from the Board as to the proper amount of relief necessary to alleviate the hardship associated with the site while still providing a building that is compatible with the essential character of the neighborhood, the applicant significantly reduced the proposed bulk of the building, both in terms of height and FAR, to a level that complies with the proposed rezoning noted above and the bulk regulations applicable to conforming manufacturing development, such that the waiver granted herein is one of use only; and

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

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

THAT substantial construction 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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 03-BSA-199K dated June 2, 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, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit the proposed construction of a four-story and cellar multiple dwelling (Use Group 2), to contain twenty-seven residential units and underground accessory parking for fourteen vehicles, located in an M1-2 zoning district, which is contrary to Z.R. Section 42-10; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 28, 2004"-(10) sheets and "Received October 5, 2004"-(1) sheet; and on further condition:

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

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

THAT the above conditions shall be noted in the Certificate of Occupancy; 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, October 19, 2004.

208-03-BZ

CEQR #03-BSA-212K

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

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SUBJECT - Application June 19, 2003 - under Z.R. §72-21 to permit the legalization of an enlargement of a one-story commercial building to a two-story commercial building, occupied as a catering hall (Use Group 9), within a lot split by C1-2(R4) and M1-1 zoning district boundaries, which does not comply with underlying district regulations applicable to FAR, rear yard, and parking, contrary to Z.R. §§33-121, 33-292, 36-21, 43-12, 43-26, and 44-21.

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

COMMUNITY BOARD #11BK

APPEARANCES - None.

ACTION OF THE BOARD - 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 October 31, 2003, acting on Department of Buildings Application No. 301263816, sets forth the following non-compliances with the Zoning Resolution:

1. Commercial: FAR (ZR 33-121), Rear Yard (ZR 33-292), Parking (ZR 36-21)
2. Manufacturing: FAR (ZR 43-12), Rear Yard (ZR 43-26), Parking (ZR 44-21); and

WHEREAS, a public hearing was held on this application on January 13, 2004 after due publication in *The City Record*, with continued hearings on February 24, 2004, March 23, 2004, May 14, 2004, June 22, 2004, July 20, 2004, August 17, 2004, September 21, 2004, and then to decision on October 19, 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 the legalization of an enlargement of a one-story commercial building to a two-story commercial building, occupied as a catering hall (Use Group 9), within a lot split

WHEREAS, upon a Board request for further amplification of the site's uniqueness, the applicant stated a complying commercial building would be narrow and unmarketable, due to the convergence of the dimensions of the lot and the presence of the zoning district boundaries; and

WHEREAS, the Board finds that the aforementioned unique physical conditions (except for the alleged irregular shape of the lot), when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study purporting to show that developing the entire premises with a conforming use would not yield the owner a

by C1-2(R4) and M1-1 zoning district boundaries, which does not comply with underlying district regulations applicable to Floor Area Ratio ("FAR"), rear yard, and parking, contrary to Z.R. §§33-121, 33-292, 36-21, 43-12, 43-26, and 44-21; and

WHEREAS, Community Board No. 15, Brooklyn recommended disapproval of this application; and

WHEREAS, the subject lot: (1) is located on the east side of Shell Road between Avenue X and Bouck Court; (2) is an irregularly shaped parcel, with 104.3' of frontage along Shell Road, a depth of 152.9' on its northern boundary and 172.3' on its southern boundary, and a width of 102.5'; and (3) has a total lot area of approximately 16,666 sq. ft.; and

WHEREAS, the lot was originally improved upon with a one-story, 22' high commercial building with 11,175 sq. ft. of total floor area and a total FAR of .67; and

WHEREAS, through an illegal enlargement, the lot is now occupied by a two-story, 27' high building with 25,050 sq. ft. of total floor area and a total FAR of 1.5; and

WHEREAS, the existing catering hall purportedly had lawful non-conforming use status within the C1-2 portion of the lot upon commencement of the illegal enlargement, as evidenced by an issued certificate of occupancy; and

WHEREAS, approval of this variance will lead to the following non-compliances: (1) Commercial: an FAR of 1.44 (1.0 is permitted); no rear yard (30' feet is required); and 0 parking spaces (26 are required); and (2) Manufacturing: an FAR of 1.65 (1.0 is permitted); no rear yard (20' feet is required); and 0 parking spaces (19 are required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in strict compliance with underlying district regulations: (1) the site is split by three zoning districts; (2) the section of the lot within the C1-2(R4) zoning district has just 50' of frontage and can not be used for manufacturing, but only for commercial and retail uses; (3) the lot is irregularly shaped; and (4) the section of the lot within the M1-1 zoning district is too small for a viable manufacturing use and is poorly located for viable retail uses given that Shell Road is primarily industrial in nature; and

reasonable return; and

WHEREAS, the applicant's financial consultant approached the analysis of the subject application as if the illegal enlargement had not taken place, and did not figure in the cost of alteration of the building back to its original, permitted configuration; and

WHEREAS, the feasibility study analyzed the following alternative development scenarios: (1) the proposed legalization of the enlargement; (2) office use; and (3) retail use; and

WHEREAS, the feasibility study concludes that only the proposed enlargement obtained the owner a reasonable return; and

WHEREAS, the Board has determined that because of

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the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood and is compatible with the other buildings in the area in terms of height and bulk; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that the building as enlarged is compatible in terms of height and bulk with the surrounding buildings; and

WHEREAS, the Board notes that the applicant secured, through a lease, rights to a parking area for use of the patrons of the catering hall, located at 25-69 Shell Road, which provides 80 attended parking spaces; 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 applicant acknowledges that the enlargement was constructed illegally, but argues that the site conditions (the split lot condition and the location of the lot in an industrial area) compromise complying development regardless of any illegal construction; and

WHEREAS, the applicant further states, and the Board agrees, that the illegal addition, in of itself, does not constitute a self-created hardship

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

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

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

WHEREAS, the Board notes that notwithstanding the absence of a DOB objection regarding Z.R. §52-43, its grant herein legalizes the otherwise unlawful enlargement of the non-conforming catering hall use; and

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

WHEREAS, the Board has conducted an environmental THAT the term of this variance shall be for five years, to expire on October 19, 2009;

THAT valet parking shall be provided for patrons of the catering establishment for the duration of the variance, and any renewal of the grant shall contain this condition;

THAT all fire safety measures as shown on the BSA-approved plans shall be installed and maintained;

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

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

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

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

THAT a certificate of occupancy be obtained within six

review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 03-BSA-212K, dated January 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, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit the legalization of an enlargement of a one-story commercial building to a two-story commercial building, occupied as a catering hall (Use Group 9), within a lot split by C1-2(R4) and M1-1 zoning district boundaries, which does not comply with underlying district regulations applicable to FAR, rear yard, and parking, contrary to Z.R. §§33-121, 33-292, 36-21, 43-12, 43-26, and 44-21; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 21, 2004"-(2) sheets and "November 26, 2003"-(4) sheets; and *on further condition*;

months from the date of this grant;

THAT no temporary or permanent certificate of occupancy shall be issued until removal of all DOB objections as set forth on the DOB Objection Sheet, dated August 4, 2004;

THAT there shall be no occupancy of the second floor of the building until a certificate of occupancy is issued;

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

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

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

THAT the Department of Buildings must ensure

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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, October 5, 2004.

260-03-BZ

CEQR #04-BSA-026K

APPLICANT - Law Offices of Howard Goldman, PLLC, for 376 East 94th Street, Realty LLC, owner.

SUBJECT - Application August 14, 2003 - under Z.R. §72-21 to permit the legalization of sixty (60) residential units, in an existing seven story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 20 Grand Avenue, between Flushing and Park Avenues, Block 1877, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES - None.

ACTION OF THE BOARD - Applicant withdrawn.

THE VOTE TO WITHDRAW -

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

Adopted by the Board of Standards and Appeals, October 19, 2004.

373-03-BZ

CEQR #04-BSA-099X

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

WHEREAS, this is an application under Z.R. § 72-21, to permit an off-site accessory parking lot, to be utilized by residents of a nearby apartment house, contrary to Z.R. §25-52; and

WHEREAS, the proposed parking lot would provide a maximum of eight parking spaces to be used by the residents of 3235 Hull Avenue, which is located on the corner of East 207th Street and Hull Avenue, approximately 300 feet from the subject site; and

WHEREAS, the subject site is an interior lot located on East 207th Street, 80 feet from the intersection of East 207th and Perry Avenue; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties in developing the subject lot in compliance with underlying district regulations: the site is uniquely narrow (width of 25') and irregular in shape; and

APPLICANT - The Agusta Group, for 3235 Hull LLC, owner.

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit an off-site accessory parking lot, to be utilized by residents of a nearby apartment house, which is contrary to Z.R. §25-52.

PREMISES AFFECTED - 293 East 207th Street, north side, 80' west of Perry Avenue, Block 3343, Lot 683, Borough of The Bronx.

COMMUNITY BOARD #7BX

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 November 10, 2003, acting on Department of Buildings Application No.200804353, reads:

“Accessory off-site parking lot located in an R7-1 zoning district contrary to section 25-52.”; and

WHEREAS, a public hearing was held on this application on August 10, 2004 after due publication in *The City Record*, with continued hearings on September 21, 2004, and then to decision on October 19, 2004; and

WHEREAS, the applicant states that although there are other narrow zoning lots within the 400 foot radius and beyond, most of these lots are developed with one or two-story pre-1961 buildings with no on-site parking; and

WHEREAS, the applicant states that in order to develop the property with an as-of-right residential building with the required on-site parking, the parking would have to be placed underground, and, with the provision of an elevator and stairs in the 1170 sq. ft. footprint building, there would be no room for a 10-foot parking corridor; and

WHEREAS, the Board finds that one of the aforementioned unique physical conditions - namely, the narrowness of the subject lot – when considered with the vacant status of the lot, creates a practical difficulty in developing the site in conformity with the current zoning; and

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

WHEREAS, the applicant asserts that in this area of the

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Bronx, on-street parking is extremely limited and off-street parking availability is scarce, and thus the proposed parking lot would have a beneficial impact on the surrounding area; and

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-099X dated April 26, 2004 ;and

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

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

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, October 19, 2004.

388-03-BZ

CEQR #04-BSA-107M

APPLICANT - Francis R. Angelino, Esq., for 444 Broadway Associates, LLC, owner; Five Points Fitness, LLC, lessee.

SUBJECT - Application December 12, 2003 - under Z.R. §73-36 to permit the legalization of a proposed physical culture establishment use, on the second floor of an existing mixed-use building, located within a M1-5B zoning district, contrary

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §72-21, to permit an off-site accessory parking lot, to be utilized by residents of a nearby apartment house, which is contrary to Z.R. §25-52; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 14, 2004"- (1) sheet; and on further condition;

THAT the term of this variance shall be for five years from the date of this grant, to expire on October 19, 2009, at which time the applicant must return to the Board with a revised financial analysis discussing the feasibility of conforming development at the site;

THAT appropriate signage be erected on each side of the vehicle gate facing the public sidewalk so that pedestrians are warned about vehicles backing out from the parking lot;

THAT an audible alarm system, warning of vehicles backing out from the parking lot, be installed and maintained;

THAT the above conditions be placed on the certificate of occupancy;

THAT substantial construction be completed and a certificate of occupancy be obtained in accordance with §72-23;

to Z.R. §42-31.

PREMISES AFFECTED - 444 Broadway, Bounded by Grand, Crosby and Howard Streets, Block 232, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Francis R. Angelino.

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 Borough Commissioner dated September 10, 2003, acting on Department of Buildings Application No. 103469747, reads:

"The Proposed Physical Culture Establishment is not a permitted 'As-Of-Right' use in a M1-5B District. This use is contrary to ZR 42-31"; and

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WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in *The City Record*, hearing closed and then to decision on October 19, 2004; and

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

WHEREAS, Community Board No. 2, Manhattan, recommends approval of this application; and

WHEREAS, this is an application for under Z.R. §§73-36 and 73-03, to permit the legalization of a proposed physical culture establishment ("PCE") use on the second floor of an existing mixed-use building, located within a M1-5B zoning district, contrary to Z.R. §42-31; and

WHEREAS, the subject premises is a through lot between Broadway and Crosby Street, improved upon with a five story commercial loft building; and

WHEREAS, the applicant represents that the PCE has a total area (including the mezzanine) of 7,501 sq. ft., the majority of which (5,500 sq. ft.) is devoted to an open gym area where there are training machines and a boxing ring; and

WHEREAS the applicant represents that the PCE opened on September 23, 2003, prior to filing an application with the Board, because the build-out took longer than expected and the applicant needed to start paying rent and investors; and

WHEREAS, the applicant further states the PCE provides facilities for classes, instruction and programs for physical improvement, such as strength and resistance training, martial arts, Pilates stretching exercises and yoga,

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-107M dated December 12, 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, per the Landmarks Preservation Commission's ("LPC") comments of May 25, 2004, as the site is located in the Soho Cast Iron Historic District, a permit from LPC is required for all work prior to construction, and should be appended to the EAS; 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.

as well as the practice of massage performed by New York State licensed masseurs or masseuses; and

WHEREAS, the applicant represents that the subject premises is occupied by a number of commercial uses, all of which are compatible with the PCE; and

WHEREAS, the applicant has installed two layers of flooring to absorb vibrations and noise, as well as rubber brackets on all speakers, as a courtesy to neighbors; 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 Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.4 and;

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §§73-36 and 73-03, to permit the legalization of a proposed physical culture establishment use, on the second floor of an existing mixed-use building, located within a M1-5B zoning district, contrary to Z.R. §42-31; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 5, 2004"-(1) sheet; and *on further condition*;

THAT this grant shall be limited to a term of ten years from September 23, 2003, expiring September 23, 2012;

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

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

THAT the hours of operation shall be limited to: Monday through Friday 5:30 AM to 10:00 PM; Saturday 7:00 AM to 5:00 PM and Sunday 8:00 AM to 3:00 PM;

THAT sound attenuation measures shall be taken as

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reflected on the BSA-approved plans;

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

THAT no building permit shall be issued until the Landmarks Preservation Commission issues its own permit;

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, October 19, 2004.

17-04-BZ

CEQR #04-BSA-123K

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 to an existing one-family dwelling (Use Group 1) 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

“The proposed legalization of the existing one family residence in an R3-2 Zoning District

1. causes an increase in the floor area exceeding the allowable floor area ratio and is contrary to Section 23-141 of the Zoning Resolution.
2. causes an increase in the lot coverage exceeding the allowable lot coverage and an increase of non-compliance in the open space as required by Section 23-141 of the Zoning Resolution.
3. proposed side yard is contrary to Section 23-461(a) of the Zoning Resolution.
4. proposed perimeter wall height is contrary to Section 23-631(b) of the Zoning Resolution.
5. proposed front yard is contrary to Section 23-45 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*, with a continued hearing on September 14, 2004, and then to decision on October 19, 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 the legalization of an enlargement to an existing one-family dwelling (Use Group 1) located in an R3-2 zoning

yards, and perimeter wall height, contrary to Z.R. §§23-141, 23-461(a), 23-631(b) 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.

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 Department of Buildings Application No. 301677184, reads:

district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, and perimeter wall height, contrary to Z.R. §§23-141, 23-461(a), 23-631(b) and 23-45; and

WHEREAS, Community Board No. 15, Brooklyn, recommended approval of this application; and

WHEREAS, the record indicates that the subject premises consists of a corner lot located at the northwest corner of Avenue S and East 24th Street, with a width of 32' and a depth of 95', and a total lot area of approximately 3,040 square feet; and

WHEREAS, the lot is an Existing Narrow Lot as defined by the Zoning Resolution; and

WHEREAS, the record indicates that the subject premises is currently improved with a two-story, one-family dwelling, enlarged on the northerly side at the first and second floors; and

WHEREAS, the applicant represents that the building was constructed before 1961, and that prior to the illegal enlargement, the building was non-compliant with regard to Floor Area Ratio (“FAR”), lot size, lot coverage ratio, perimeter wall height, and side and front yards; and

WHEREAS, the enlargement increased the FAR from the pre-existing 0.66 to 0.77 (the maximum permitted is 0.5), increased the lot coverage ratio from 0.38 to 0.42 (the maximum permitted is 0.35), reduced one front yard from 10'-6" to 10'-1" (15'-0" is required), and legally reduced one side yard from 23'-0" to 17'-10" (a minimum of 5'-0" is

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required); and

WHEREAS, the Board notes that the subject application seeks to legalize pre-existing non-compliances which were unchanged by the illegal enlargement: the perimeter wall height remains at 22'-0" (the maximum permitted is 21'-0"), one side yard remains at 2'-11" (a minimum of 5'-0" is required), and one front yard remains at 10'-1" (15'-0" is required); and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties in developing the subject corner lot in compliance with underlying district regulations: the site is uniquely small and narrow; and

WHEREAS, as noted above, the applicant represents that the subject lot meets the definition of an Existing Narrow Zoning Lot, and that, pursuant to Z.R. §23-32, a one-family dwelling may not be constructed on a zoning lot with a width of less than 40 feet or with a lot area of less than 3,800 sq. ft.; and

WHEREAS, the applicant states that since the lot is a corner lot, a front yard of fifteen feet and ten feet is required, and since the lot is in an R3-2 zoning district, side yards of five feet and five feet four inches is required; when both requirements are applied, the resulting enlargement would be limited to 12 feet in width, with an interior space of only ten feet; and

WHEREAS, the applicant represents that the overall design of the enlargement is in keeping with other development in the area, and therefore would not impact the residential character of the community; and

WHEREAS, the submitted radius map, plans and photos indicate that the bulk of the subject proposal would be compatible with the surrounding residential buildings; and

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

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

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

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

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, §§5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. § 72-21, to permit the legalization of an enlargement to an existing one-family dwelling (Use Group 1) 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, and perimeter wall height, contrary to Z.R. §§23-141, 23-461(a), 23-631(b) and 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 June 9,

WHEREAS, the applicant states that a ten foot interior width would not produce a functional layout; and

WHEREAS, at the request of the Board, the applicant conducted a survey of nine blocks near the subject lot, in order to establish that the subject lot's physical conditions were not so prevailing in the area that the lot could not be considered uniquely afflicted; and

WHEREAS, the applicant states that the survey shows that the majority of the lots in the study area are deeper and smaller than the subject lot - of the 557 lots surveyed, only 12 (2.2%) are less than 100 feet deep and have a lot area equal to or less than the subject lot; and

WHEREAS, the applicant concludes that the subject lot is uniquely afflicted due to its atypical size and depth; and

WHEREAS, the Board finds that the aforementioned unique physical condition - namely the narrowness and small size of the subject corner lot - creates practical difficulties in developing the site in compliance with the applicable zoning provisions; and

WHEREAS, no financial feasibility study is required for this single-family dwelling development proposal; and

WHEREAS, however, the Board finds that without the requested waivers, the hardship inherent to the lot would result in a residential development that would not be habitable; and

2004"- (7) sheets; and "Received October 18, 2004" - (1) sheet; and *on further condition*;

THAT a 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; 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, October 19, 2004.

139-04-BZ

CEQR #04-BSA-150K

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 (Use Group 1), located in an R2 zoning district,

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which does not comply with the zoning requirements for floor area, open space and rear yards, 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 #14BK

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

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

WHEREAS, the subject lot is located on East 28th Street, Brooklyn, between Avenues L and M, and has a total lot area of approximately 3,000 sq. ft.; and

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

WHEREAS, the lot is improved upon with an existing two-story residential structure; and

WHEREAS, the applicant seeks a proposed floor area ratio of 0.95 (the maximum floor area ratio is 0.5); an open space ratio of 120.0 (the minimum open space ratio is 150.0); and a rear yard of 20 feet (a rear yard of 30 feet is required); and

WHEREAS, the applicant states that due to a sloping roof, only a portion of the attic level is deemed habitable floor area pursuant to the Zoning Resolution; and

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

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

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

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

Commissioner Chin.....5
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 5, 2004, acting on Department of Buildings Application No. 301688911, reads, in pertinent part:

- “(1) ZR 23-141 floor area proposed exceeds the allowable floor area ?
- (2) ZR 23-47 proposed rear yard is less than the required rear yard of 30'
- (3) open space ratio is contrary to ZR 23-141.”; and

WHEREAS a public hearing was held on this application on September 14, 2004 after due notice by publication in *The City Record*, and then to October 5, 2004 for decision; the decision date was then deferred to October 19, 2004; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space and rear yards, contrary to Z.R. §§23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received August 17, 2004”- (4) sheets and “October 19, 2004”-(2) sheets; and *on further condition*;

THAT there shall be no habitable room in the cellar;

THAT the FAR of the building shall be limited to .95;

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

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

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

THAT all rooms to be occupied must comply with Building Code requirements as to habitability, as determined by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by

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the Board as to the use and layout of the cellar;
THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and
THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.
Adopted by the Board of Standards and Appeals, October 19, 2004.

205-04-BZ
CEQR #04-BSA-204R

APPLICANT - Philip L. Rampulla, for Dominick Casale, owner.
SUBJECT - Application May 18, 2004 - under Z.R. §72-21 to permit the proposed construction of a one-family dwelling located both in an R3-1 zoning district and the Special South Richmond Development District ("SRD"), which does not

- "1. ZR 107-461 The proposed single family detached dwelling located within an R3-1 Special South Richmond District does not provide the required front yard of 18' and 10' and is contrary to Section 107-461 ZR.
- 2. ZR 23-14 The proposed single family detached residence exceeds the Bulk requirements of Section 23-14 ZR, Floor Area Ratio."; and

WHEREAS a public hearing was held on this application on September 28, 2004, after due notice by publication in *The City Record*, and then to decision on October 19, 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 No. 3, Staten Island, recommended approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a one-family dwelling located both in an R3-1 zoning district and the Special South Richmond Development District ("SRD"), which does not comply with the zoning requirements for front yard and floor area, contrary to Z.R. §§ 107-461 and 23-14; and

WHEREAS, the record indicates that the subject site is a corner lot located at the intersection of Tennyson Drive, Groton Street and an unnamed alley, which the applicant states was created by a filed map when this area was a bungalow community; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in compliance with underlying district regulations: the site is irregularly shaped, shallow in size, and small; and

WHEREAS, the subject zoning lot has four sides but a

comply with the zoning requirements for front yard and floor area, contrary to Z.R. §§107-461 and 23-14.

PREMISES AFFECTED - 375 Tennyson Drive, southwest corner of Groton Street, Block 5317, Lot 48, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES - None.

For Applicant: Philip Rampulla.

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 Borough Commissioner, dated May 11, 2004, acting on Department of Buildings Application No. 500690665, reads, in pertinent part:

triangular appearance, with a width of 40 feet at its widest point, and frontages of approximately 75 feet along Tennyson Drive and 76 feet along the unnamed alley; and

WHEREAS, the R3-1(SRD) regulations mandate the provision of an 18 foot front yard along Tennyson Drive, a 10 foot front yard along the unnamed alley, and one 5 foot side yard, which the applicant states would result in a single family dwelling with a total lot coverage of only 152.12 sq. ft. and a total floor area of 456 sq. ft.; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create practical difficulties in developing the site in strict compliance with the applicable zoning provisions; and

WHEREAS, no financial feasibility study is required for this single-family dwelling development proposal; and

WHEREAS, however, the Board finds that without the requested waivers, the hardship inherent to the lot would result in a residential development that would not be habitable; and

WHEREAS, the record indicates that the bulk of the subject proposal is consistent with the surrounding residential buildings; and

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

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

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

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

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)

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and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed construction of a one-family dwelling located both in an R3-1 zoning district and the Special South Richmond Development District ("SRD"), which does not comply with the zoning requirements for front yard and floor area, contrary to Z.R. §§107-461 and 23-14; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received July 24, 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

APPEARANCES -

For Applicant: Steven Epstein.

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

255-03-BZ

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

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

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

COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Richard Lobel.

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

273-03-BZ thru 285-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED -

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, October 19, 2004.

193-03-BZ

APPLICANT - James M. Plotkin, Esq., for Park and Kent Associates, Inc., owner.

SUBJECT - Application June 10, 2003 - under Z.R. §72-21 to permit the proposed construction of a five (5) story, 27 unit residential building, in an M1-1 zoning district.

PREMISES AFFECTED - 824/34 Kent Avenue, south side of Park Avenue, and east of Taaffe Place, Block 1897, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #3BK

211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of Queens.

211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of Queens.

211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100, Borough of Queens.

211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

211-46 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103, Borough of Queens.

211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of

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Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

For Opposition: Marc Cloutier, Nagassar Ramgarib, R. Cloutier, J. Burton, John Stiller and Richard Hellenbrecht.

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

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

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.

ACTION OF THE BOARD - Laid over to November 9, 2004, at 1:30 P.M., for deferred decision.

9-04-BZ

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

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

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

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Marvin Mitzner.

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

125-04-BZ

APPLICANT - Steven M. Sinacori/Stadtmayer Bailkin, for Everest Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - under Z.R. §72-21 to permit the proposed two story expansion of an existing one story

287-03-BZ

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

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.

commercial building, for residential use, Use Groups 2 and 6, located in R4, C2-2 and R3A zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, open space, number of dwelling units and height of building, is contrary to Z.R. §23-141, §35-31, §23-22 and §23-631.

PREMISES AFFECTED - 247-39 Jamaica Avenue, north side, between 91st Avenue and Commonwealth Boulevard, Block 8662, Lot 50, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Rich Hellenbrecht.

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

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 #12BK

APPEARANCES -

For Applicant: Janice Cahalane, Sean Mulrayav and Chris Tartaglia.

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

168-04-BZ

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig LLP, for Greenwich Triangle 1, LLC, owner.

SUBJECT - Application April 23, 2004 - under Z.R. §72-21 to

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permit

the proposed construction of an eight story building, with residential use on its upper seven floors, in an M1-5 zoning district, within the Special Tribeca Mixed Use District, is contrary to Z.R. §111-02.

PREMISES AFFECTED - 500 Canal Street, (a/k/a 471 Greenwich Street), triangle bounded by Canal, Watts and Greenwich Streets, Block 594, Lots 1 and 3, Borough of Manhattan.

COMMUNITY BOARD #1

APPEARANCES - None.

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 #5M

APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: William H. Daly and Chester Hochbaum.

For Administration: Anthony Scaduto, Fire Department.

ACTION OF THE BOARD - Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

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 #18BK

APPEARANCES -

For Applicant: Mitchell Ross, Mark Fertig, Meryl Magadino, Miriam Steinberg, Mike Rudy, Ahtony Sciortino and Sabrina Sarrentino.

For Opposition: Senator Carl Kruger, Councilman Lew Fidler, Alan Maisel, Assemblyman Seddio Office, Chair of Community Board 18, Dorothy Turano, Roberta Sherman, Paul Needle, George Kyriakides and Mel Levy.

Administration: Evens Joseph.

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

ACTION OF THE BOARD - Laid over to October 26, 2004, at 1:30 P.M., for postponed hearing.

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 #14BK

APPEARANCES -

For Applicant: Moshe Friedman.

ACTION OF THE BOARD - Laid over to November 23, 2004, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 6:55 P.M.