
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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November 18, 2004

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DOCKETS

New Case Filed Up to November 9, 2004

346-04-BZY B.BX. 3329/33 Giles Place (a/k/a 3333 Giles Place), west side, between Canon Place and Fort Independence Street, Block 3258, Lots 5 and 7, Borough of The Bronx. N.B. #200911754-01. Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

347-04-BZY B.BX. 3056 Cross Bronx Expressway, west side, 176.54' north of Sampson Avenue, Block 5443, Lot 71, Borough of The Bronx. N.B. #200919416. Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

348-04-BZY B.BX. 3058 Cross Bronx Expressway, west side, 119.70' north of Sampson Avenue, Block 5443, Lot 80, Borough of The Bronx. N.B. #200910407. Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

349-04-BZY B.BX. 1420 Balcom Avenue, east side, 225' north of Latting Street, Block 5370, Lot 10, Borough of The Bronx. N.B. #200819383. Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

350-04-BZ B.BX. 3450 Wayne Avenue, between Gun Hill Road and East 210th Street, Block 3343, Lot 245, Borough of The Bronx. Applic. #200912584. Proposed erection of a non-accessory radio transmission tower and antenna, on top of an existing residential building, located in an R7-1 zoning district with a partial C1-3 overlay, requires a special permit from the Board as per Z.R. §73-30.

COMMUNITY BOARD #7BX

351-04-BZ B.Q. 210-08/12 Northern Boulevard, thru lot between Northern Boulevard and 45th Road, 150' east of 211th Street, Block 7309, Lots 21 and 23 (Tentative Lot 21), Borough of Queens. Applic. #401999637. Proposed reduction in the number of required parking spaces, for a proposed addition to an existing professional office building, located in an R6B/C2-

2 and R4 (split lot) zoning district, requires a special permit from the Board as per Z.R. §73-44.

COMMUNITY BOARD #11Q

352-04-BZ B.S.I. 1845 Richmond Avenue, east side, 500' south of Eaton Place, Block 2030, Lot 57, Borough of Staten Island. Applic. #500531123. Proposed construction of a two story retail establishment, Use Group 6, is contrary to Z.R. §22-00 and to a previously approved BSA Cal. Number 118-01-BZ, which permitted a 1 ½ story office building in an R3-1 zoning district.

COMMUNITY BOARD #2SI

353-04-BZ B.Q. 18-15 Francis Lewis Boulevard, a/k/a 157-68/72 18th Avenue and 18-02/8 160th Street, corner of Francis Lewis Boulevard, 18th Avenue and 160th Street, Block 4748, Lot 35, Borough of Queens. Alt. #401730926. The reestablishment of an expired approval, previously granted by the Board under Cal. No. 612-59-BZ for a professional office building in a residential district, also the legalization of minor changes in the interior layout of the building, in addition the proposed installation of a circular staircase within the existing structure, is contrary to Z.R. §11-411 and §11-412.

COMMUNITY BOARD #7Q

354-04-BZ B.M. 637 Greenwich Street, east side, 75.3' south of Barrow Street, Block 603, Lot 51, Borough of Manhattan. Applic. #102045396. Proposed conversion of an existing two-story building, from artist's studio to a single family residence, located in an M1-5 zoning district, is contrary to Z.R. §42-10.

COMMUNITY BOARD #3M

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

CALENDAR

DECEMBER 14, 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 14, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

100-71-BZ

APPLICANT - The Agusta Group, for Maurice Cohen/1065 Eagle, LLC, owner.

SUBJECT - Application July 21, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance to permit the use of an open area for the sale of used cars (U.G. 16) and accessory parking on a lot containing an existing automobile repair shop, located in an R5 zoning district.

PREMISES AFFECTED - 61-03 Northern Boulevard, northeast corner of Northern Boulevard, and 61st Street, Block 1162, lot 53, Borough of Queens.

COMMUNITY BOARD #1Q

APPEALS CALENDAR

253-04-A

APPLICANT - Joseph P. Morsellino, Esq., for P & D Builders Inc., owners.

SUBJECT - Application July 15, 2004 - Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 fo the General City Law.

PREMISES AFFECTED - 102-35 Williams Court, west of Ocean Avenue, Block 14239, Lot 1184, Borough of Queens.

COMMUNITY BOARD #10Q

254-04-A

APPLICANT - Joseph P. Morsellino, Esq., for P & D Builders Inc., owners.

SUBJECT - Application July 15, 2004 - Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 fo the General City Law.

PREMISES AFFECTED - 102-29 Williams Court, west of Ocean Avenue, Block 14239, Lot 1186, Borough of Queens.

COMMUNITY BOARD #10Q

271-04-A

259-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Richard Senior, owner.

SUBJECT - Application July 20, 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

APPLICANT Pier 63 Maritime, Inc. , by Michele A. Luzio.

SUBJECT - Application August 3, 2004 - An appeal challenging the Department of Buildings jurisdiction to issue summons to subject property, on the grounds that the NYC Department of Business Services has exclusive jurisdiction over The "Barge".

PREMISES AFFECTED - One Pier 63, at 23rd Street and The Hudson River, (The Barge), Block 662, Lot 2, Borough of Manhattan.

DECEMBER 14, 2004, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, December 14, 2004, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

357-03-BZ

APPLICANT - Agusta & Ross, for ECROB, LLC., owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed four-story and penthouse multiple dwelling in an M1-2 district contrary to Z.R. §42-10.

PREMISES AFFECTED - 33 Berry Street, aka 144 North 12th Street, southwest corner of North 12th Street and Berry Street, Block 2290, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #1BK

238-04-BZ

APPLICANT - Agusta & Ross, for C- Squarewood, LLC, owner; New York Health & Racquet Club, lessee.

SUBJECT - Application June 23, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment, to be located in the cellar, also on the first and mezzanine floors, of an existing twelve story mixed-use building, located in an M1-5B zoning district.

PREMISES AFFECTED - 62 Cooper Square, west side, 159.05' south of Astor Place, Block 544, Lot 7501 (condo), Zoning Lots 32, 33 and 34, Borough of Manhattan.

COMMUNITY BOARD #2M

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

PREMISES AFFECTED - 1181 East 22nd Street, between Avenues "K" and "L", Block 7622, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #14BK

MINUTES

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, NOVEMBER 9, 2004
10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, September 14, 2004, were approved as printed in the Bulletin of September 23, 2004, Volume 89, Nos. 36-38.

SPECIAL ORDER CALENDAR

371-29-BZ

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

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

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

COMMUNITY BOARD #13BX

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-412 for an amendment to the resolution, to permit the legalization of an existing tire shop as an accessory use to the existing automotive service station; and

WHEREAS, a public hearing was held on this application on May 25, 2004, after due notice by publication in *The City Record*, then postponed to August 10, 2004 with a continued hearing on September 14, 2004 and then to November 9, 2004 for decision; and

WHEREAS, Community Board 12, Bronx, recommended approval of this application; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since December 24, 1929, when the Board granted an application for a variance to permit the

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning

erection and maintenance of a gasoline service station; and
WHEREAS, most recently, on January 9, 2001, the Board granted an application to extend the term of the variance for a period of ten years from June 6, 1998, and to permit the installation of a metal canopy over two new concrete pump islands; and

WHEREAS, the applicant represents that the premises has been operating as an automotive service station, with accessory tire sales, which is a use not listed on the certificate of occupancy; and

WHEREAS, the applicant represents that the tire repair area, once such use is approved by the Board, shall be enclosed within the existing building; and

WHEREAS, in response to concerns raised by the Board, curb cuts at Grenada Place and 233rd Street have been eliminated, as shown on the submitted plans; 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, in that legalization of the tire repair use.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution pursuant to Z.R. §11-412, said resolution having been adopted on December 24, 1929, so that as amended this portion of the resolution shall read: "To permit the legalization of an existing tire shop as an accessory use to the existing automotive service station; *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 26, 2004"- (6) sheets; and *on further condition*;

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

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

THAT no tire repairs shall occur on any sidewalk abutting the lot;

THAT all curb cuts and fencing shall be installed and/or maintained as shown on 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 a new certificate of occupancy be obtained within one year from the date of this grant;

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

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or

MINUTES

configuration(s) not related to the relief granted.”
(DOB Application # 200811675)

Adopted by the Board of Standards and Appeals,
November 9, 2004.

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.

OPREMISES 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.

ACTION OF THE BOARD - Application granted on
condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-411,
for an extension of the term of the variance, which expired on
October 29, 2004, and for approval of a minor amendment
to 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 laid over to October 19,
2004 and then to November 9, 2004 for decision; and

WHEREAS, on June 3, 1958, the Board granted an
application to permit the erection and maintenance of a
gasoline service station with accessory uses; and

WHEREAS, since the original grant, the applicant has
obtained subsequent minor amendments and extensions of
the term of the variance, the most recent extension being
granted on May 9, 1995; and

WHEREAS, the subject application seeks an extension
of the term; and

WHEREAS, the application also seeks an amendment
to the resolution to allow an accessory convenience store on
the premises, which is a use allowed as-of-right but which
requires Board approval because the site is under Board

799-62-BZ

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

SUBJECT - Application February 24, 2004 - request for a waiver

jurisdiction; and

WHEREAS, this accessory convenience store was
created when the owner converted the repair bay structure;
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.

Resolved, that the Board of Standards and Appeals
reopens and amends the resolution, pursuant to Zoning
Resolution §11-411, so that as amended this portion of the
resolution shall read: “To extend the term of the variance for
an additional ten (10) years from October 29, 2004, to
expire on October 29, 2014, and to allow accessory
convenience store on the premises; *on condition* that all
work shall substantially conform to drawings as filed with this
application, marked “Received September 30, 2004”-(4)
sheets and “Received October 25, 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 landscaping shall be installed and maintained as
shown on 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 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 #200742278)

Adopted by the Board of Standards and Appeals,
November 9, 2004.

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

MINUTES

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.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, this application is for a re-opening, a waiver of the rules of procedure, and an extension of the term of the variance, which expired on November 9, 2002; and

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

WHEREAS, on December 11, 1962, the Board granted an application under Section 60(3) of the Multiple Dwelling Law to permit the use of transient parking for the unused and surplus tenants' spaces in the required accessory garage within the existing building; and

WHEREAS, on November 9, 1977 and June 7, 1994, the Board granted subsequent extensions of the term of this grant; and

WHEREAS, on August 31, 1995, the Board approved by letter a minor clarification as to the garage's capacity, determining that a change in the number of parking spaces to 68 spaces rather than 53 spaces, as erroneously indicated on the previously submitted plans, was minor; and

WHEREAS, the applicant now represents that, based upon the net square footage of the parking area, 68 parking spaces may continue to be provided.

Therefore it is Resolved that the Board of Standards and Appeals, *reopens and amends* the resolution, pursuant to Z.R. §§72-01 and 72-22, said resolution having been adopted on December 11, 1962 as amended through June 7, 1994, so that as amended this portion of the resolution shall read: "To extend the term of the variance for an additional ten (10) years from November 9, 2002, to expire

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

on November 9, 2012; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received October 25, 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 amount of parking spaces shall be limited to 68;

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

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

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

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

THAT the layout of the parking area 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; 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 #103484203)

Adopted by the Board of Standards and Appeals, November 9, 2004.

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 -

For Applicant: Janice Cahalane.

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, this application is for an extension of time to complete construction; and

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

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2004 for decision; and

WHEREAS, on May 2, 2000, the Board granted an application under the subject BSA calendar number to permit the conversion and enlargement of an existing one-story manufacturing building for residential use; and

WHEREAS, on May 7, 2002, the Board granted an application for an amendment to the resolution to permit: (1) the substitution of 5 three-bedroom duplex apartments with 10 two-bedroom simplex apartments along the Kent Avenue frontage; (2) an increase in the number of parking spaces provided from 20 to 23; (3) the creation of a cellar level of parking at the location of the existing building; and (4) the installation of a passenger elevator to service the dwelling units in the portion of the proposed building at the corner of Kent Avenue and North Seventh Street; and

WHEREAS, the applicant states that construction has been delayed by a number of factors including design changes, financing difficulties and site preparation requirements, including those imposed by the MTA.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, said resolution having been adopted on May 2, 2000, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction for a period of three (3) years from the date of this resolution; *on 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 the construction of the proposed development shall comply with the previously approved Board plans;

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."

SUBJECT - Application February 2, 2004 and June 10, 2004 - reopening for an extension of time to complete construction and obtain a certificate of occupancy to permit a one story family residence and for an amendment to the resolution to modify the interior arrangement and also raise the height of the building.

PREMISES AFFECTED - 1253 Oriental Boulevard, northwest corner Norfolk Street, Block 8756, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

Adopted by the Board of Standards and Appeals, November 9, 2004.

53-86-BZ

APPLICANT - Sheldon Lobel, P.C., for Hallmark Equities, L.P., owner.

SUBJECT - Application June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of time to obtain a Certificate of Occupancy which expired January 19, 2000.

PREMISES AFFECTED - 350 Wadsworth Avenue, west side of Wadsworth Avenue, 72.3' north of West 190th Street, Block 2170, Lot 281, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES -

For Applicant: Janice Cahalane.

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

234-98-BZ

APPLICANT - Walter T. Gorman, P.E., for Jose Vasquez, owner; Harlem Hand Carwash, lessee.

SUBJECT - Application November 18, 2003 - reopening for an extension of time to complete construction which expires on November 23, 2003.

PREMISES AFFECTED - 2600-2614 Adam Clayton Powell Jr. Boulevard, a/k/a 2600-2614 7th Avenue, west side of Adam Clayton Powell Jr. Boulevard, block front from W. 150th Street to W. 151st Street, Block 2036, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES -

For Applicant: Deirdre Carson.

ACTION OF THE BOARD - Laid over to February 1, 2005, at 10 A.M., for postponed hearing.

133-99-BZ

APPLICANT - Harold Weinberg, P.E., P.C., for Anna Kadar, owner.

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

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

MINUTES

150-00-BZ

APPLICANT - Eric Palatnik, P.C., for Yeshiva of Far Rockaway, owner.

SUBJECT - Application May 17, 2004 - reopening for an amendment to the resolution for modification of an existing Yeshiva previously approved by the Board.

PREMISES AFFECTED - 802 Hicksville Road, corner of Beach 9th Street, Block 15583, Lot 16, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Eric Palatnik, Rabbi Cohen and David Sterman.

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

15-04-A

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: Eric Palatnik.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated December 22, 2003, acting on Department of Buildings Application No. 500643878, reads in pertinent part:

“1. The street giving access to the proposed

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

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

Adopted by the Board of Standards and Appeals, November 9, 2004.

building is not placed on the official map of the City of New York, therefore:

- A. No Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law;
- B. Permit may not 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 and 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*, with a continued hearing on October 19, 2004, and then to decision on November 9, 2004; and

WHEREAS, by letter dated August 31, 2004, the Fire Department states that it has reviewed the above project and has no objections provided that the building be both fully sprinklered and connected to an approved Fire Central Station monitoring company; and

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

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated December 22, 2003, acting on Department of Buildings Application No. 500643878, 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 26, 2004”- (1) sheet; that the proposal comply with all applicable zoning district requirements; and that all other 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;

330-04-BZY

APPLICANT - Law Office of Howard Goldman, for Arlington Suites, LLC, owners.

SUBJECT - Application October 7, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 3220/28 Arlington Avenue and 3223 Netherland Avenue, 200' north of the intersection of 232nd Street and Arlington and Netherland Avenues, Block 5788, Lots 78, 80, 84 and 117.

APPEARANCES -

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For Applicant: Howard Goldman, Emily Simons, Joe Foster and Samuel Jonas.

For Opposition: Council Member Koppel; Judy Sonett, Senator Eric Schneiderman Office; Charles Moerdler, Community Board 8; Steven Bernardo, Pat Boyle, Richard Weiss and Norman Danzig.

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

333-04-BZY

APPLICANT - Michael T. Sillerman/Gary R. Tarnoff, for 3618, LLC owner.

SUBJECT - Application October 8, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 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.

APPEARANCES -

For Applicant: Gary Tarnoff and James Pourc.

For Opposition: Assemblyman Jeffrey Dinowitz, Damian McSharie, Community Board 8 and Lea Caplan.

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

346-04BZY

APPLICANT - Sheldon Lobel, P.C., for GRA V LLC, owner.

SUBJECT - Application October 27, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 3329-3333 Giles Place (a/k/a 3333 Giles Place), west side of Giles Place between Canon Place and Fort Independence Street, Block 3258, Lot 5 and 7, Borough of The Bronx.

APPEARANCES -

For Applicant: Jordan Most and Donna Difara.

For Opposition: Charles Moerdler, Community Board 8; Lynn

APPEARANCES -

For Applicant: Emily Simons.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough

Schwarz, Karen Argenti and Arax Hogroian.

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

Pasquale Pacifico, Executive Director.

Adjourned: 1:15 P.M.

REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 9, 2004

2:00 P.M.

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

ZONING CALENDAR

306-03-BZ

CEQR #04-BSA-056K

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit within a M1-2 zoning district, the conversion of an existing four-story plus cellar building into a five-story, fifteen-unit mixed use commercial/residential building, contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #2BK

Commissioner, dated September 9, 2003, acting on Department of Buildings Application No. 301159537, reads:

- “1. The proposed residential dwellings in an M1-2 district are contrary to Section 42-00 of the Zoning Resolution and require a variance from the Board of Standards and Appeals.
2. The proposed residential dwellings in an M1-2 district are contrary to Section 43-00 of the Zoning Resolution and require a variance from the Board of Standards and Appeals”; and

WHEREAS, a public hearing was held on this application on March 9, 2004 after due publication in *The*

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City Record, with continued hearings on April 27, 2004, June 15, 2004, July 20, 2004, and September 14, 2004, and then to decision on November 9, 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 Commissioner Miele; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an M1-2 zoning district, the conversion of an existing four-story plus cellar building into a five-story, fifteen-unit mixed use commercial/residential building, contrary to Z.R. §§ 42-00 and 43-00; and

WHEREAS, Community Board 2, Brooklyn recommended approval of this application; and

WHEREAS, the subject site is located between Jay and Bridge Streets and has a total lot area of 5,750 sq. ft.; and

WHEREAS, the applicant states that the existing building was originally constructed in 1898, and was expanded in the early 1900s to the existing four floors; and

WHEREAS, the applicant further states that the building was most recently used by a maker of wicker baskets for both manufacturing and storage, but that this use was discontinued over ten years ago and that the building has subsequently been vacant; and

WHEREAS, this application contemplates a conversion and enlargement of the existing structure into a 65' high, five-story, fifteen-unit residential dwelling with a Floor Area Ratio ("FAR") of 4.19, which will include both conforming use and residential lobby space on the first floor; and

WHEREAS, the application originally contemplated the construction of a 76' high, six-story and cellar residential building with a FAR of 4.8, to contain eighteen residential units and parking on the first level, but, in response to Board concerns, was modified to reflect the current proposal; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the subject site is burdened with a functionally obsolete structure; (2) the

WHEREAS, the Board requested that an analysis be done of a hotel scenario and a mixed-use scenario with only one additional story; and

WHEREAS, the applicant's financial consultant opined in a letter as to these scenarios, determining that the only instant proposal will realize a reasonable return for the owner,

WHEREAS, the Board finds the opinion of the financial consultant credible and sufficient; and

WHEREAS, the applicant also submitted evidence of failed marketing attempts for a conforming use, with numerous site visits by prospective occupants; the Board has determined this evidence to be credible; and

WHEREAS, therefore, the Board has determined that

building's narrow size and tightly spaced pillars make it unsuitable for manufacturing or warehouse use; (3) the building's loading dock, which was originally designed for horse and buggies is too small for modern trucks; and (4) the building has an outmoded elevator; and

WHEREAS, the Board agrees that the existing building may be obsolete, but disagrees that the column spacing is a contributing factor to such obsolescence; and

WHEREAS, in support of the argument that the site is unique, the applicant also states that 26 of 38 lots (68%) within the eight-block area surrounding the premises have larger footprints than the premises; and

WHEREAS, the Board views the primary basis for uniqueness and hardship to be the small size of the lot and the resulting small size of the floor plates (approximately 4700 sq. ft.), coupled with the fact that the existing building has multiple floors; and

WHEREAS, the Board credits the submitted evidence regarding the size of the subject lot relative to those in the eight-block area, and notes that it shows that the majority of the lots that are smaller than the subject lot are either vacant or occupied by buildings dissimilar to the existing building (in terms of number of floors or occupancies); and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions (aside from the column spacing), when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant submitted a feasibility study showing that both a conforming manufacturing use scenario and a conforming office use scenario result in unreasonable rates of return; and

WHEREAS, the Board initially questioned the need for two extra stories on top of the existing building; and

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 manufacturing, commercial and residential uses in the surrounding area; and

WHEREAS, the applicant further represents that the neighborhood to the south and west of the lot is becoming increasingly residential and that this residential character is spreading to the to the area in which the property is located (the Vinegar Hill section of Brooklyn); and

WHEREAS, the submitted eight-block area study demonstrated that residential uses were found in 71% of the

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buildings surveyed; and

WHEREAS, the Board notes that some of the surveyed residential uses are not legal, and specifically disclaims these illegal uses as contributing to the essential character of the neighborhood; and

WHEREAS, however, the Board finds that some residential uses do exist in the eight-block area studied by the applicant; and

WHEREAS, the applicant states that: (1) the block on which the premises is located is bordered on the east by new mixed-use M1-5/R9-1 and M1-2 /R8A zoning districts; (2) the area directly to the west of the site has been recently rezoned R6B and R6A, with commercial overlays; (3) the block on Front Street between Pearl and Jay Streets, which is to the southwest of the premises, was recently rezoned to an M1-5/R9-1 in anticipation of a residential development; and (4) the block directly to the south of the premises, containing 176,542 square feet of vacant land, is the subject of a pending City Planning Commission application for a rezoning to M1-2/R8, which will facilitate a mixed-use residential/commercial development; and

WHEREAS, the proposed five-story building will have a total height of 65 feet, which the applicant states is compatible with the built context of the neighborhood; and

WHEREAS, the applicant has submitted a bulk table, listing building heights in the eight-block study area, which demonstrates that of the 32 buildings studied, 14 are taller than the proposed building's height of 65 feet, and nine of these buildings are 75 feet or taller; and

WHEREAS, the Board notes that an adjacent building is 70' high; and

WHEREAS, the applicant also submitted a traffic study showing that traffic on Water Street was typical of a residential neighborhood versus a manufacturing neighborhood; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes

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

WHEREAS, the action is located within New York City's Coastal Zone Boundary, and has been determined to be consistent with the New York City Waterfront Revitalization Program; and

WHEREAS, the December 3, 2003 EAS specifically

that mixed-use residential/commercial use of the site is appropriate given the uses of the neighborhood; and

WHEREAS, the Board also concludes that the bulk of the proposed building is compatible with the built context of the neighborhood; 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 reduced the total number of proposed floors, and included a conforming commercial use on the ground floor of the premises; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-056K dated December 3, 2003; and

examined the proposed action for potential hazardous materials and air quality impacts and determined that there would not be any impacts; and

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

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

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

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under Z.R. §72-21 and grants a variance to permit, within a M1-2 zoning district, the conversion of an existing four-story plus cellar building into a five-story, fifteen-unit mixed use commercial/residential building, contrary to Z.R. §§42-00 and 43-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 26, 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 be noted in the Certificate of Occupancy;

THAT the FAR of the proposed building shall be limited to 4.19, and the height shall be limited to 65 feet;

THAT compliance with all applicable light and air requirements shall be as reviewed and approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, November 9, 2004.

343-03-BZ

CEQR #04-BSA-075K

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

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit in an M1-1 zoning district, the proposed construction

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-1 zoning district, the proposed construction of a five-story multiple dwelling (Use Group 2), to contain thirteen residential units and accessory parking for seven vehicles, contrary to Z.R. §42-00; and

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

WHEREAS, the subject site is located on the west side of Havemeyer Street between Metropolitan Avenue and Hope Street, with a total lot area of 5,075 sq. ft., and is currently vacant; and

WHEREAS, the subject application originally contemplated the construction of a six-story residential building with a Floor Area Ratio ("FAR") of 2.98, to contain sixteen residential units, but, in response to Board concerns,

of a five-story multiple dwelling (Use Group 2), to contain thirteen residential units and accessory parking for seven vehicles, 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: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 23, 2003, acting on Department of Buildings Application No. 301574035, reads:

"The proposed residential dwellings in an M1-1 district are contrary to section 42-00 of the zoning resolution and require a variance from the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on May 11, 2004 after due publication in *The City Record*, with continued hearings on June 22, 2004, August 10, 2004, and September 14, 2004, and then to decision on October 19, 2004; the decision was then deferred to November 9, 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 Commissioner Miele; and

has now been modified to a proposal for a five-story residential building with an FAR of 2.37, to contain thirteen residential units; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the subject site has a history of residential development and is poorly situated for as-of-right use because the adjacent uses are predominantly residential; (2) the site is irregularly shaped; and (3) approximately one-third of the lot has a shallow depth of only fifty feet; and

WHEREAS, the applicant has submitted Sanborn Maps that document a history of residential development on the subject site; maps from 1887 through 1965 indicate that the

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site was developed with three residential dwellings during that time period; and

WHEREAS, the Sanborn Maps also indicate that these dwellings were demolished and that the site has remained undeveloped since 1978; and

WHEREAS, the applicant represents that the predominant land use in the area is residential; within a 400 foot radius of the site, 71 lots contain residential uses, 11 are vacant, only eight contain manufacturing or warehouse use, five contain garages or auto related uses, four are undeveloped and used for parking, two contain retail uses, one contains a church, and one contains a park; and

WHEREAS, the subject site is irregular in shape, with a width of 94'7" along Havemeyer Street, of which 22'-3½" has a depth of 50 feet and 72'-3 ½" has a depth of 78'-5"; and

WHEREAS, the applicant states that the odd shape and shallowness of a portion of the site result in increased development costs; and

WHEREAS, the Board notes that the irregular shape and shallow depth of the lot would make it difficult to create a building that could viably accommodate conforming uses; and

WHEREAS, the Board finds that the aforementioned unique physical conditions - namely, the irregular shape and shallowness of a portion of the lot, the lot's history of residential development, and the fact that the site is surrounded by residential uses - 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, which purports to demonstrate that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the Board questioned certain assumptions

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, which reflects a decrease in bulk from that originally proposed, is the minimum necessary to afford the owner relief; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-075K

made in the study, particularly those that concerned the acquisition value; and

WHEREAS, the applicant's financial consultant submitted a revised study that took the Board's concerns into account; and

WHEREAS, this revised study showed unreasonable rates of return for the following scenarios: conforming manufacturing, retail, and community facility; and

WHEREAS, the Board finds this revised 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 of the site in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant has reduced the proposed bulk of the building, both in terms of height and FAR, to a level that is more consistent with the surrounding area's built context; and

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

WHEREAS, the applicant notes that the proposed building is lower in height and density than two of the three existing buildings on the subject block-front; 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

dated August 23, 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, per the Landmarks Preservation Commission's ("LPC") comments of December 9, 2003, the applicant shall submit an archaeological documentary study for the above-referenced project site to the LPC for its evaluation and approval; this study is requested based on LPC's review of archaeological sensitivity models and

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historic maps which indicate that there is the potential for the recovery of remains from 19th Century occupation on the project site; the applicant shall not receive a building permit nor commence any site grading, excavation, or building construction on the project site until the LPC approves of this study and determines that there are no archaeological concerns; and

WHEREAS, the February 9, 2004 submission by the applicant's consultant specifically examined the proposed action for potential hazardous materials, air quality impacts and noise impacts and determined that there would not be any hazardous materials impacts; this submission did determine there could be potential air quality and noise impacts on the proposed occupants of the residential building due to the surrounding uses; and

WHEREAS, a Conditional Negative Declaration was published on October 6, 2004, which addressed the potential archaeological resources, air quality and noise impacts noted above; 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 Conditional Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit, in an M1-1 zoning district, the proposed construction of a five-story multiple dwelling (Use Group 2), to contain thirteen

132-04-BZ

CEQR #04-BSA-144M

APPLICANT - Eric Palatnik, P.C. of Counsel to Charles Foy, Esq., for Malu Properties, Inc., owner.

SUBJECT - Application March 15, 2004 - under Z.R. §72-21 to permit within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. §32-15.

PREMISES AFFECTED - 310 East Houston Street, southeast corner of Avenue "P", Block 384, Lot 4, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

residential units and accessory parking for seven vehicles, contrary to Z.R. § 42-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 23, 2004" - (9) sheets; and *on further condition*:

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

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

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

THAT DOB shall not issue a building permit for any work at the site unless and until an archaeological documentary study for the above-referenced project site, showing that there are no archaeological concerns, is submitted to and approved by the Landmarks Preservation Commission, and notice of such 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, November 9, 2004.

Caliendo.....4

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 23, 2004, acting on Department of Buildings Application No. 103673473, reads:

"Proposed retail store (UG6) is not permitted as of right in R7-2 district and it is contrary to ZR 32-15";

and

WHEREAS, a public hearing was held on this application on September 28, 2004 after due publication in *The City Record*, and then to decision on November 9, 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

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WHEREAS, this is an application under Z.R. §72-21, to permit, within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. §32-15; and

WHEREAS, Community Board 3, Manhattan recommended approval of this application; and

WHEREAS, the premises is a triangular shaped zoning lot located at the southeast corner of East Houston Street and Avenue B, and has a total lot area of 7,860 sq. ft.; and

WHEREAS, the lot is currently improved upon with an existing automotive service station (Use Group 16); and

WHEREAS, the proposal contemplates a six-story plus penthouse, mixed-use building containing storage at the cellar level, commercial use of 3,992 sq. ft on the ground floor, community facility space of 5,558 sq. ft. at the second floor, and residential space of 22,490 sq. ft. and 29 dwelling units on floors 3 thorough 6 and the penthouse; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the subject lot is oddly configured and contains an irregular triangular shape, which at various points is shallow and narrow in depth; (2) the site has a history of non-conforming development; and (3) there is underground environmental contamination at the site; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant submitted a feasibility study showing that an as-of-right residential scenario resulted in an unreasonable rate of return; and

WHEREAS, the applicant further states that the proposed ground floor commercial use is more in keeping with the character of the surrounding area than the existing automotive service station; and

WHEREAS, the commercial space on the ground floor will be limited to 3992 square feet, and the space will be occupied only Use Group 6 uses, except for bars and restaurants; and

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

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

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

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

WHEREAS, at the Board's request, the applicant explained why a full build-out Quality Housing scenario at 4.0 FAR or a full build-out mixed-use community facility/residential building would not work, stating that the building would have to rise higher, and thereby trigger setback requirements that would result in smaller, inefficient, and less viable floor plates, with rent insufficient to offset the increased construction costs; and

WHEREAS, the applicant also explained why residential use was not feasible at the first floor, stating that ground floor residential does not generate revenue sufficient to offset construction costs, whereas ground floor commercial would; and

WHEREAS, the Board reviewed the study, as well as the additional explanations, and finds them 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 and residential uses in the surrounding area; and

WHEREAS, the applicant states that numerous buildings located on Avenue B, East Houston Street and Second Avenue contain ground floor commercial use and residential use on the higher floors, similar to the proposed building; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-144M dated June 1, 2004; and

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

WHEREAS, the applicant's environmental consultants

MINUTES

have examined through various studies (the Phase II report dated September 1, 2000, the Project Status Report dated January 7, 2002, and the Hazardous Materials Update document dated May 24, 2004) the existing petroleum contamination in the groundwater due to prior gasoline spills at the site; 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, within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. § 32-15; *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 October 26, 2004"- (3) sheets; and *on further condition*:

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

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

THAT the ground floor commercial space shall not be occupied by an eating and drinking establishment or a bar;

THAT the above conditions shall be noted in the

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Absent: Commissioner Chin.....1

Adopted by the Board of Standards and Appeals, November 9, 2004.

143-04-BZ

CEQR #04-BSA-153R

APPLICANT - Rampulla Associates Architects, for Charles Farina, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed in-ground pool, located within the required front yard, which is contrary to Z.R. §23-12.

PREMISES AFFECTED - 522 Arbutus Avenue, north side, at the

Certificate of Occupancy;

THAT all signage shall comply with regulations applicable to a C1 zoning district;

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

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

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

Adopted by the Board of Standards and Appeals, November 9, 2004.

142-04-BZ

CEQR #04-BSA-152R

APPLICANT - Rampulla Associates Architects, for Frank McErlean, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed single family detached residence, Use Group 1, located within the required front yard, which is contrary to Z.R. §23-45.

PREMISES AFFECTED - 516 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES - None.

intersection of Shore Avenue and Trout Place, Block 6529, Lot 10, Borough of Staten Island

COMMUNITY BOARD #3SI

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Absent: Commissioner Chin.....1

Adopted by the Board of Standards and Appeals, November 9, 2004.

147-02-BZ

APPLICANT - Gerald J. Caliendo, R.A., for Joseph Pizzonia, owner.

MINUTES

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit the legalization of the change of use of covered parking area, to automobile repair service bays, and the addition of a mezzanine with an accessory office and storage area, located in a C1-2 within an R-4 zoning district, is contrary to a previous variance granted under Cal. No. 148-87-BZ and Z.R. §32-00.

PREMISES AFFECTED - 201-06 Hillside Avenue, southeast corner of 201st Street, Block 10495, Lot 52, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Sandy Anagnostou.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

ACTION OF THE BOARD - Laid over to December 7, 2005, at 1:30 P.M., for decision, hearing closed.

161-02-BZ

APPLICANT - SFS Associates, for Coral Cove, LLC, owner.

SUBJECT - Application May 20, 2002 - under Z.R. § 72-21 to permit the proposed construction of a six story residential building, Use Group 2, located in a C3 zoning district, which does not comply with the zoning requirements for floor area ratio, perimeter wall, height, lot area per dwelling unit, setback, sky exposure and parking, is contrary to Z.R. §§23-00 and 25-00.

APPEARANCES -

for Applicant: Sandy Anagnostou.

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

221-03-BZ

APPLICANT - Martyn & Don Weston, for 253 West 28th Street, Corp., owner.

SUBJECT - Application June 26, 2003 - under Z.R. §72-21 to permit the legalization of three existing residential units, located on the third, fourth and fifth floors, of a five story mixed use building, in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 253/55 West 28th Street, north side, 105'-1" east of Eighth Avenue, Block 778, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Don Weston, Frank Angelino, Jack Freeman, Vincent Hanley and Mariana Vadukal.

For Opposition: Howard Goldman and Richard Resnik.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

PREMISES AFFECTED - 2433 Knapp Street, corner of Knapp Street and Avenue "X", Block 8833, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Peter Hirshman, Anthony Falotreo and Robert Pauls.

For Opposition: George Broadhead and Dan Cavanaugh..

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

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

218-03-BZ

APPLICANT - Gerald J. Caliendo, R.A., for TTW Realty LLC, owner.

SUBJECT - Application June 25, 2003 - under Z.R. §72-21 to permit the proposed nine-story mixed use building with residential, commercial and community facility uses, located in an M1-1 zoning district, which does not comply with the zoning requirements for the uses, permitted floor area, total height and perimeter wall, is contrary to Z.R. §42-00, §23-141 and §23-631.

PREMISES AFFECTED - 19-73 38th Street, corner of 20th Avenue, Steinway Street and 38th Street, Block 811, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

ACTION OF THE BOARD - Laid over to February 15, 2005, at 1:30 P.M., for decision, hearing closed.

63-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Showky Kaldawy, owner.

SUBJECT - Application February 27, 2004- under Z.R. §72-21 to permit the proposed accessory parking, for an adjacent car rental facility, (Use Group 8), located in an R5 zoning district, is contrary to Z.R. §22-10.

MINUTES

PREMISES AFFECTED - 108-24 Astoria Boulevard, southwest corner of 110th Street, Block 1703, Lots 94, 97, 98 and 99, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Joseph Morsellino, Jimmy Smith and Showky Kaldawy.

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

71-04-BZ

APPLICANT - Rudolf Gedeon, for Joseph Duton St. Jour, owner.
SUBJECT - Application March 5, 2004 - under Z.R. §72-21 to permit the proposed construction of a three family residence, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio and side yard, is contrary to Z.R. §23-141(b) and §23-462(a).

PREMISES AFFECTED - 720 East 86th Street, between Glenwood Road and Flatlands Avenue, Block 8006, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Rudolf Gedeon.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

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

137-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Steven Sharabli, owner.
SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R3-2 zoning district, which exceeds the allowable floor area, lot coverage, perimeter wall height, and side yard and rear yards, is contrary to Z.R. §23-141, §23-631, §23-48 and §23-47.

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

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

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

128-04-BZ

APPLICANT - Marvin B. Mitzner, Fischbein Badillo Wagner Harding for Sam and Esther Minskoff Cultural Center, Park East Day School, Inc., owner.

SUBJECT - Application March 11, 2004 - under Z.R. §72-21 to permit the enlargement of an existing school (Use Group 3) in an R8B zoning district, which is contrary to Z.R. §23-633, §24-11, §24-33 and §24-552.

PREMISES AFFECTED - 162-168 East 68th Street, southside of East 68th Street, 100 feet west of Third Avenue, Block 1402, Lots 41 and 42 (tent. 42), Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Marvin Mitzner and Peter Geis.

For Opposition: Jack Lester, Lah Jacobs, Ken Podziba, Rita Chu, Weng Liff and Mark Hamilton.

THE VOTE TO CLOSE HEARING -

Absent: Commissioner Chin.....1

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

156-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Edwin Umanoff, owner.
SUBJECT - Application April 13, 2004 - under Z.R. §72-21 to permit the legalization of an existing insurance brokerage business, Use Group 6, located in an R5 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 9712 Flatlands Avenue, between East 98th Street and Rockaway Parkway, Block 8205, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Jordan Most and Edwin Umanoff.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

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

159-04-BZ

MINUTES

APPLICANT - Sheldon Lobel, P.C., for Civic Builders, Inc., owner.

SUBJECT - Application April 19, 2004 - under Z.R. §72-21 to permit the proposed construction of a charter school, Use Group 3, located within an M2-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 950/60 Longfellow Avenue, east side, between Bruckner Boulevard and Garrison Avenue, Block 2755, Lots 125 and 127, Borough of The Bronx.

COMMUNITY BOARD #2BX

APPEARANCES -

For Applicant: Richard Lobel and Aun Tirschwell.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

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

167-04-BZ

APPLICANT - Dennis D. Dell' Angelino, R.A., for Steven Katz, owner.

SUBJECT - Application April 23, 2004 - under Z.R. §73-622 to

170-04-BZ

APPLICANT - Dennis Dell' Angelo, R.A., for Jean Teichman, owner.

SUBJECT - Application April 26, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family residence, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 2409 Avenue "K", north side, 53.0' east of East 24th Street, Block 7606, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Dennis Dell' Angelino.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

ACTION OF THE BOARD - Laid over to December 7, 2004, at 1:30 P.M., for decision, hearing closed.

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,

permit Proposed enlargement of an existing single family detached residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and the required rear yard, is contrary to Z.R. §23-14 and §23-47.

PREMISES AFFECTED - 1336 East 22nd Street, West side, 180.0' north of Avenue "M", Block 7639, Lot 76, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Dennis Dell' Angelino.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

ACTION OF THE BOARD - Laid over to December 7, 2004, at 1:30 P.M., for decision, hearing closed.

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 and Eur Joo Kim.

For Opposition: Debra Cantor.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Chin.....1

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

285-04-BZ

APPLICANT - Slater & Beckerman, LLP, for Augustana Lutheran Home, owners.

SUBJECT - Application August 16, 2004 - under Z.R. §73-49 to permit parking on the roof of an existing four-story accessory

MINUTES

parking garage contrary to Z.R. §36-11, located in a C1-3/R6 zoning district.

PREMISES AFFECTED - 5435 First Avenue aka 5424/5434 Second Avenue, west side, between 54th and 56th Streets, Block 820, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Stuart Beckerman.

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

Pasquale Pacifico, Executive Director.

Adjourned: 6:20 P.M.