
BULLETIN

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AND APPEALS

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June 2, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

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

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Affecting Calendar Numbers:

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DOCKETS

New Case Filed Up to June 14, 2005

134-05-A B.Q. 67-02 53rd Road, south side of the intersection of 67th Street, 53-31 and 53-33 67th Street, bed of 67th Street, 156.6' south of the intersection of 53rd Road, Block 2403, Lots 17, 117 and 217, Borough of Queens. Applic.#s401389724, 401389706 and 401389715. Proposed construction, located within the bed of mapped street, is contrary to Section 35, Article 3 of the General City Law.

135-05-BZ B.M. 217 West 147th Street, between Adam Clayton Powell, Jr. and Frederick Douglas Boulevards, Block 2033, Lot 12, Borough of Manhattan. Alt.1#104110392. Proposed conversion of a vacant 6-story school building into a 55-unit residential building, which does not comply with the zoning requirements for maximum building and base height, rear yard and required parking, is contrary to Z.R. §23-633, §23-533 and §25-23.
COMMUNITY BOARD #10BK

136-05-BZ B.BX. 1901 Nereid Avenue, northeast corner of Ely Avenue, Block 5092, Lot 10, Borough of the Bronx. N.B.#200918784. Proposed two family dwelling, located in an R4 zoning district, which does not comply with the zoning requirements for front yard, lot area and width, is contrary to Z.R. §23-45 and §23-32.
COMMUNITY BOARD #12BX

137-05-BZ B.Q. 198-61 Foothill Avenue, north side, 230.47' from the corner of Hillside Avenue, Block 10532, Lot 139, Borough of Queens. N.B.#401721277. Proposed construction of a two story one family dwelling, located in an R1-2 zoning district, which does not comply with the zoning requirement for lot width, is contrary to Z.R. §23-32.
COMMUNITY BOARD #8Q

138-05-BZ B.BK. 1227 East 27th Street, east side, between Avenues "L and M", Block 7645, Lot 34, Borough of Brooklyn. Alt.1#301951136. Proposed enlargement of a single family residence, located in an R-2 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. §23-141(a), §23-461(a) and §23-47.
COMMUNITY BOARD #14BK

139-05-A B.Q. 977 Bayside Walk, west side of

Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1#402023877. Proposed alteration and enlargement of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

140-05-A B.Q. 29 Queens Walk, east side, 217.19' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1#402100908. Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has an upgrade existing private disposal system situated partially in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

141-05-BZY B.BK. 66 Huron Street, south side, 125' east of West Street, Block 2531, Lot 12, Borough of Brooklyn. Alt.#301046981. Application for an extension of time to complete construction and/or obtain a certificate of occupancy for development pursuant to Z.R.§11-332.

142-05-A B.Q. 43-19 208th Street, east side, between 43rd Avenue and Northern Boulevard, Block 6275, Lot 40, Borough of Queens. Applic.#402076980. An administrative appeal to rescind a Stop Work Order, and re-instate DOB permit #s 402076980-01-AL and 402076980-EQ-FN on the grounds that the owner has acquired a "vested right" to obtain a Certificate of Occupancy.

143-05-A B.Q. 47-05 Bell Boulevard, between 47th and 48th Avenues, Block 7346, Lot 49, Borough of Queens. Applic.#402112487. An administrative appeal to rescind a Stop Work Order, and re-instate DOB permit #402112487-01-AL, on the grounds that the owner has acquired a "vested right" to complete construction and obtain a Certificate of Occupancy.

144-05-BZY B.Q. 143-53/55 Poplar Avenue, northwest corner of Parsons Boulevard, Block 5228, Lots 32 and 34, Borough of Queens. N.B.#s 402096968 and 402096959. Application for an extension of time to complete construction and/or obtain a certificate of occupancy for a major development pursuant to Z.R. §11-331.

DOCKETS

145-05-BZY B.BK. 135 North Ninth Street, north side, 125. 0' east of Berry Street, Block 2304, Lot 36, Borough of Brooklyn. N.B.#301822981. Application for an extension of time to complete construction and/or obtain a certificate of occupancy for a minor development pursuant to Z.R. §11-331.

146-05-BZ B.M. 900 Second Avenue, aka 884/900, 301/03 East 47th Street and 300/06 East 48th Street), Block 1340, Lot 1, Borough of Manhattan. Applic.#104063656. Proposed physical culture establishment, located on the first floor of a twenty-one story building, situated in a C1-9 zoning district, requires a special permit from the Board as per Z.R.§73-36.

COMMUNITY BOARD #6M

147-05-BZ B.BK. 2402 Avenue "P", southeast corner of East 24th Street, Block 6787, Lot 1, Borough of Brooklyn. Applic.#301931694. The legalization of, and the proposed enlargement, of a two-story building, housing a synagogue and Rabbi's apartment, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, side and front yards and front setback, is contrary to Z.R. §23-141, §24-11, §24-34, §24-35, and §24-521.

COMMUNITY BOARD #15BK

148-05-A B.Q. 42-03 222nd Street, east side, 180' north of 43rd Avenue, Block 6326, Lot 10, Borough of Queens. Applic.#401984732. An appeal to permit completion of a second floor enlargement to an existing dwelling, approved, permitted and substantially completed prior to change in zoning (April 12, 2005).

149-05-A B.Q. 32-29 211th Street, East side of 211th Street, Block 6061, Lot 10, Borough of Queens. Applic. # 401867618. An application to rescind a Stop Work Order and to reinstate DOB Permits issued on the grounds that the owner has acquired a common law vested right to complete construction and obtain a Certificate of Occupancy.

150-05-BZ B.BK 1426 Fulton Street, Between Kingston & Brooklyn Avenue, Block 1863, Lot 9, Borough of Brooklyn. Applic. # 301897918. Proposed physical establishment(massage therapy spa) to be located in a three story commercial building, located in C2-3/R6 zoning district requires a special permit from the Board as per Z.R. §73-36.

COMMUNITY BOARD # 3BK

151-05-BZ B.M 100 Varick Street, Easterly

side of Varick Street between Watt and Broome Streets, Block 477, Lots 35, 42, Borough of Manhattan. Applic. # 103625436. Proposed construction of a ten (10) story mixed use building with as-of-right commercial use on the ground floor and residential use on the upper floors, located in an M1-6 zoning district, is contrary to Z.R. §72-21

COMMUNITY BOARD # 2M

152-05-BZ B.BK 255 Butler St., a/k/a 484 Baltic St., a/k/a 224 Nevins Street, Irregular L-shape lot W/S Nevins between Butler & Baltic; extending 200' & 175' W. on Nevins, Block 405, Lot 27, Borough of Brooklyn. Applic. # 301898953. Proposed residential use and a reallocation of an existing warehouse building, located in an M1-2 zoning district, is contrary to Z.R. §72-21.

COMMUNITY BOARD # 6BK

153-05-A B.Q 222-54 141st Avenue, Bed of 114th Avenue, s/e/c with 224th Street, Block 13149, Lot 48, Borough of Queens. Applic. # 402077195. Application to permit construction in the bed of a final mapped street, contrary to Article III, Section 35 of the General City Law.

154-05-BZ B.M 520-528 Broome Street and 530-532 Broome Street and 55 Sullivan Street, North side of Broome Street between Thompson & Sullivan Streets, Block 489, Lots 1 & 41, Borough of Manhattan. Applic. # 104129890. Application is for Zoning Variance to permit construction of 8-story building with ground floor retail, residential on upper floors and 117 space parking garage is contrary to Z.R. 72.21.

COMMUNITY BOARD #2M

155-05-A B.M 81 East 3rd Street, 3rd Street between 1st and 2nd Avenues, Block 445, Lot 45, Borough of Manhattan. Applic. #102579354. Appeals to Department of Building Denial of Final Determination Letter dated March 21, 2005.

DOCKETS

156-05-BZ B.M 1 Seventh Avenue South,
Commences on North-East corner of Seventh Avenue South,
Block 582, Lot 43, Borough of Manhattan. Applic. #
104124190. Variance to permit a new 5 and a half story
building with commercial use on the cellar and first floors
and residential use on the upper floors with 5.5 FAR and
100% lot coverage, contrary to §23-145 and 5 a foot setback
contrary to §35-24 and residential use under 1,700 sq. ft.
contrary to §23-22.

COMMUNITY BOARD # 2M

157-05-A B.Q 39 Kildare Walk, E/S 70' North
of Breezy Point Boulevard, Queens, Block 16350, Lot 400,
Borough of Queens. Applic. # 402152772. Appeals to
Department of Buildings to allow construction of a two
story frame dwelling on a site lying within an R4 district is
contrary to Article 3, Section 35 of the General City Law, in
that the site does not front on a mapped Street (Kildare
Walk) and contrary to Sec. 27-291 of the Building Code.

**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

JULY 26, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 26, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

523-58-BZ

APPLICANT -Walter T.Gorman, P.E., for Yehuea, LLC, owner; Farmers Mini Mart Inc., lessee.

SUBJECT - Application March 25, 2005 - Extension of Term/Waiver for a gasoline service station with accessory uses. The premise is located an C1-2/R3-2 and R3-2 zoning district.

PREMISES AFFECTED - 117-30/48 Farmers Boulevard, southwest corner of Baisley Boulevard, Block 12448, Lot 31, Borough of Queens.

COMMUNITY BOARD #12Q

328-82-BZ

APPLICANT - Agusta & Ross, for Parkhouse Hotel, Inc., owner.

SUBJECT - Application February 4, 2005 - Extension of Term/Waiver of a variance to permit a transient hotel (UG 5) which expired on January 18, 2003. The premise is located in an R-6 zoning district.

PREMISES AFFECTED - 1206 48th Street, southwest corner of 48th Street and 12th Avenue, Block 5634, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #12BK

199-97-BZ

APPLICANT - Sheldon Lobel. P.C., for Corey Marcus, owner.

SUBJECT - Extension of Time to Complete Construction and Obtain a Certificate of Occupancy, for a variance, granted on May 27, 1998, allowing an enclosed florist shop in an R3-2 zoning district. A previous extension of time to obtain a Certificate of Occupancy was granted on October 1, 2002.

PREMISES AFFECTED - 130-38 Horace Harding Expressway, south side of Horace Harding Expressway, west of the intersection with Lawrence Avenue, Block 6451, Lots 12 & 16, Borough of Queens.

COMMUNITY BOARD #7Q

SUBJECT - Application March 4, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling also a proposal to upgrade the non-complying private disposal system, located within the bed of a mapped street and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law and

186-00-BZ

APPLICANT -Law Office of Fredrick A. Becker, for Stacey Dana and Murray Dana, owners.

SUBJECT - Application April 14, 2005 - reopening for an extension of time which expired April 17, 2005.

PREMISES AFFECTED - 2301 Avenue L, northeast corner of Avenue L and East 23rd Street, Block 7623, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEALS CALENDAR

36-05-A

APPLICANT -Zygmunt Staszewski, P.E., for Breezy Point Cooperative, Inc., owner; William Mullay, lessee.

SUBJECT - Application February 24, 2005 -Proposed alteration to an existing one family dwelling, located within the bed of a mapped Street, also a proposal to upgrade the existing septic system, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED -35 Janet Lane, east side, 577.98' north of Beach 203rd Street and Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

49-05-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Joan & Fred Tierney lessees.

SUBJECT - Application March 4, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling, also a proposal to upgrade the non-complying private disposal system, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 8 Atlantic Walk, west side, 38.15' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

50-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Elsa & Vincent Lehner, lessees.

Department of Buildings' Policy.

PREMISES AFFECTED - 412 Seabreeze Avenue, east side, 40.7" north of Beach 183rd Street, Block 16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

86-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; George & Christine Donley, lessee.
SUBJECT - Application April 8, 2005 - Proposed enlargement of an existing single family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 103 Oceanside Avenue, east side of Beach 204th Street and north side of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

JULY 26, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, July 26, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

321-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Blake Lefferts Co., owner; The Montgomery Academy, lessee.

SUBJECT - Application September 23, 2004 - under Z.R.§73-19 to allow the conversion of an existing commercial building (Use Group 6) to School (Use Group 3) which is contrary to section 32-00, located in a C8-2 zoning district.

PREMISES AFFECTED - 842 Lefferts Avenue, south side, 262'-1/2" west of Utica Avenue, Block 1430, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #9BK

326-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Sephardic Center of Mill Basin, owner.

SUBJECT - Application- under Z.R.§72-21 to request a bulk variance to allow the construction of a new synagogue in place of an existing synagogue. The application seeks waivers regarding Floor area ratio (sections 24-111 and APPLICANT - Stuart Klein for GIM Management & Sheepshead Bay Spa Ctr., lessee.

SUBJECT - Application January 25, 2005- under Z.R.§.§73-03 & 73-36 - approval sought for a proposed physical cultural establishments to be located on the first and second of a three story commercial building. The proposed PCEs use will contain 39,505 gross square feet. The site is located in a C8-02 (OP) Special District.

23-141), perimeter wall height (section 24-521), sky exposure plane(section 24-521) and parking (sections 25-18 and 25-31), located in a R2 zoning district.

PREMISES AFFECTED - 6208/16 Strickland Avenue, northeast corner of Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #18BK

353-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Medident Corp., owner.

SUBJECT - Application November 4, 2004- under Z.R.§§11-411 & 11-412 to permit the reestablishment of an expired approval, previously granted 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.

PREMISES AFFECTED - 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.

COMMUNITY BOARD #7Q

399-04-BZ

APPLICANT - Greenberg Traurig LLP, by Jay A. Segal, for Hip-Hin Realty Corp., owner.

SUBJECT - Application December 23, 2004- under Z.R.§§72-21 & 73-36 - Proposed use of the subcellar for accessory parking, first floor and cellar for retail, and the construction of partial sixth and seventh stories for residential use, also a special permit to allow a physical culture establishment on the cellar level, of the subject premises, located in an M1-5B zoning district, is contrary to Z.R.§42-14(D), §13-12(a) and §73-36.

PREMISES AFFECTED - 425/27 Broome Street, southeast corner of Crosby Street, Block 473, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #2M

13-05-BZ

PREMISES AFFECTED - 614-626 Sheepshead Bay Road, Sheepshead Bay Road, bound by West 8th & West 6th Street, Block 7279, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

44-05-BZ

CALENDAR

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for David Murray & Adrienne Berman, owners.

SUBJECT - Application February 25, 2005 - under Z.R.§73-243, to permit an Accessory Drive Through Facility, contrary to Section 32-15, accessory to a proposed as-of-right Eating and Drinking Establishment (Use Group 6) located in a C1-2/R5 zoning district.

PREMISES AFFECTED - 49-01 Beach Channel Drive, between Beach 49th and Beach 50th Streets, Block 15841, Lot 19 (Tentative 50), Borough of Queens.

COMMUNITY BOARD #14Q

69-05-BZ

APPLICANT - Moshe M. Friedman, P.E., for Renee Devor, owner.

SUBJECT - Application March 22, 2005 - under Z.R.§73-622 to permit the enlargement to a single family home to vary sections ZR23-141(b) for FAR, lot coverage, open space and ZR23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1557 East 27th Street, 527.8' north of Avenue "P", Block 7688, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JUNE 14, 2005
10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, April 5, 2005, as printed in the Bulletin of April 14, 2005, Volume 90, No. 17.

SPECIAL ORDER CALENDAR

765-50-BZ

APPLICANT - Kenneth H. Koons, for R. G. Ortiz Funeral Home, Inc., owner.

SUBJECT - Application January 24, 2005 - Extension of Term of a Variance for an existing Funeral Establishment Granted by the Board, filed pursuant to section 11-411 of the zoning resolution, located in aC1-2/R6 zoning district.

PREMISES AFFECTED - 1430-36 Unionport Road, east side 43' south of Olmstead Avenue, Block 3933, Lot 53, Borough of The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Kenneth Koons.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in The City Record, and then to decision on June 14, 2005; and

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

WHEREAS, Community Board 9, Bronx, recommends approval of this application; and

WHEREAS, on July 14, 1953, under the subject calendar number, the Board granted an application to permit, in a R6(C1-2) zoning district, the construction of a one story addition to an existing funeral parlor for a term of 20 years, contrary to Z.R. § 32-00; and

WHEREAS, at various times since 1973, the Board has APPEARANCES -None.

ACTION OF THE BOARD -Application granted on condition.

reopened the application to allow for other extensions of term, the last being granted on June 6, 1995; and

WHEREAS, the most recent term of variance expired on November 20, 2003; and

WHEREAS, the applicant now seeks an extension of term of variance pursuant to Z.R. § 11-411; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of an extension of term with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, adopted on July 14, 1953, so that as amended this portion of the resolution shall read: "to extend the term of the variance for 10 years from November 20, 2003; on condition that all work shall substantially conform to drawings as filed with this application, marked `Received May 27, 2005' - (1) sheet and `June 24, 2005'-(3) sheets; on further condition:

THAT the term of this grant shall be for 10 years, to expire on November 20, 2013;

THAT there shall be 10 parking spaces on-site;

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 conditions from prior resolution(s) 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 objections(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. 200926098)

Adopted by the Board of Standards and Appeals, June 14, 2005.

45-65-BZ

APPLICANT - Wachtel & Masyr, LLP, by Jesse Masyr, Esq., for John Catsimatidis c/o Red Apple Group, ownr.

SUBJECT - Application March 31, 2005 - for an amendment pursuant to Z.R. §§72-01 and 72-22 to enclose an open area formerly used for an accessory off-street loading berth.

PREMISES AFFECTED - 1526 Grand Concourse aka 1539 Sheridan Avenue, Sheridan Avenue between East 172nd Street and Mount Eden Parkway, Block 2821, Lot 11, Borough of The Bronx.

COMMUNITY BOARD #4BX

THE VOTE TO GRANT -

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

MINUTES

Chin.....4

Negative:.....
....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on June 7, 2005, after due notice by publication in The City Record, and then to decision on June 14, 2005; and

WHEREAS, Community Board No. 4, Bronx, recommends approval of the subject application; and

WHEREAS, on May 25, 1965, under the subject calendar number, the Board granted an application pursuant to Z.R. § 72.21 to permit, in an R8 zoning district within the Special Grand Concourse Preservation District, the maintenance of an off-street loading berth, accessory to an existing supermarket; and

WHEREAS, also, the Board granted a waiver under BSA Calendar No. 45-65-A, to permit the exit stairs to Sheridan Avenue to be covered with an incombustible roof and side screen, as opposed to partitions or walls; however, this prior "A" case will be rendered moot by the current proposal; and

WHEREAS, the applicant now seeks to amend the prior variance and proposes to enclose the area formerly used as an accessory off-street loading berth, for use as a food storage area on the first floor and as a refuse storage area on the lower level; and

WHEREAS, the applicant explains that the purpose of the enclosure is two-fold: (1) it would provide a much-needed storage area at the rear of the supermarket on the first floor, and (2) by enclosing the refuse staging area on the lower level, the enclosure would serve as a buffer between refuse storage, which is currently exposed, and the neighboring residential property; and

WHEREAS, the applicant states that the proposed enclosure would add approximately 2,850 sq. ft. of new floor area to the supermarket, which is currently approximately 60 ft. wide and between 190 and 260 feet deep; and

WHEREAS, the applicant notes that subsequent to enclosing the loading area, the exit stairs leading to Sheridan Avenue will be enclosed in a structure with 8-12 inch concrete masonry walls, which, as noted above, would moot the appeal mentioned above; and

WHEREAS, the applicant represents that the proposed amendment to the previously-granted variance will improve the supermarket's operations by expanding the first floor storage area; previously, the supermarket's storage space was limited to an area between 30 and 60 feet wide by 60 to 100 feet deep located at the back of the store; and

WHEREAS, the applicant further represents that the proposed amendment will bring into compliance a small mechanical enclosure that could not be housed within the previously-existing structure due to operational constraints

APPEARANCES -

For Applicant: Peter Hirshman.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

within the supermarket; and

WHEREAS, the subject site, now within the Special Grand Concourse Preservation District, is a commercial infill site under the applicable special district regulations, and is therefore treated as a conforming use; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution, as the increase in floor area is modest, with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals re-opens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the enclosure of an open-area, formerly used as an accessory off-street loading berth, for use as an accessory storage area; on condition that all work and site conditions shall substantially conform to drawings filed with this application marked `Received March 31, 2005'-(7) sheets; and on further condition;

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

THAT 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 resolution(s) 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 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. 200811595)

Adopted by the Board of Standards and Appeals, June 14, 2005.

348-82-BZ

APPLICANT - Salvati Architects for George Gong, owner.
SUBJECT - Application December 17, 2004 - Extension of Term/ Waiver/ Amendment, application seeks to legalize the change from three (3) storefronts (U.G. 6) to two (2) storefronts (U.G. 6 & 16D) located in an R5 zoning district.

The application was approved under section 72-21 of the zoning resolution to permit in an R5 zoning district, the establishment of three (U.G. 6) storefronts for a term of 20 years which expired on April 12, 2003.

PREMISES AFFECTED - 204 Avenue S, Avenue S and West 6th Street, Block 7083, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #11BK

Commissioner Miele and Commissioner Chin.....4

Negative:.....
.....0

THE RESOLUTION-

WHEREAS, this is an application for a re-opening and

MINUTES

an extension of the variance for a term of 20 years; and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in The City Record, and then to decision on June 14, 2005; and

WHEREAS, Community Board No. 11, Brooklyn, recommends approval of the subject application; and

WHEREAS, Council Member Domenic M. Recchia, Jr. supports this application; 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, on April 12, 1983, under the subject calendar number, the Board granted an application under Z.R. § 72-21, to permit, in an R5 zoning district, the establishment of three retail stores (Use Group 6) for a term of twenty years; and

WHEREAS, at the time of the grant, only one of the storefronts was occupied by a Use Group 6 dry cleaning establishment; and

WHEREAS, the applicant now seeks an extension of the term of the variance and an amendment that would legalize the change from the single storefront that the Use Group 6 dry cleaning establishment previously occupied, to the two storefronts that the dry cleaning establishment currently occupies; this change has led to an increase in the amount of floor area that the dry cleaning establishment occupies to 3,400 sq. ft. and

WHEREAS, a Use Group 6 dry cleaning establishment is limited to 2000 sq. ft.; if a dry cleaning establishment has greater than 2000 sq. ft., it is categorized in Use Group 16D; and

WHEREAS, the now 3400 sq. ft establishment is therefore within Use Group 16D; and

WHEREAS, however, the applicant notes that the use of the facility remains the same even though more space is required to accommodate the new machines associated with the latest dry cleaning technology; and

WHEREAS, the applicant has committed to complying with all regulations applicable to Use Group 6 dry cleaning establishments, including, but not limited to, the conditions set forth below; and

WHEREAS, the applicant also states that: (1) the dry cleaning facility has been operating in the 3400 sq. ft. space for approximately three and a half years; (2) the property has not received any violations; (3) the facility does not use Perchloroethylene and complies with all NYC Department of Environmental Protection rules and regulations, and permitting requirements for NYC dry cleaners; and (4) pursuant to the April 12, 1983 resolution, signage at the dry cleaning facility **189-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for 830 East 233rd Street, Corp., owner.

SUBJECT - Application September 20, 2004 - reopening for an amendment to the resolution to permit the enlargement and conversion of the existing accessory service bays to an accessory convenience store.

PREMISES AFFECTED - 836 East 233rd Street, Bushing Avenue, Block 4857, Lots 44 & 41, Borough of The Bronx.

will comply with the C-1 district regulations; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of an extension of term with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals, reopens and amends the resolution, said resolution having been adopted on April 12, 1983, so that as amended this portion of the resolution shall read: "to extend the term of the variance for twenty years from April 12, 2003; on condition that all work and site conditions shall substantially conform to drawings filed with this application marked 'May 31, 2005' - (2) sheets; and on further condition;

THAT the term of this grant shall be for twenty years, to expire on April 12, 2023;

THAT the dry cleaning facility's hours of operation shall be Monday thru Saturday, 7:30 A.M. to 8:00 P.M.;

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 there shall be no connection between the Use Group 16 Dry Cleaning Establishment and the adjacent Use Group 6 use, including in the basement and/or cellar;

THAT the rear yard is not to be used for storage; THAT there shall be no doors in between rooms in the cellar;

THAT the dry cleaning establishment shall be limited to 3400 SF;

THAT only solvents with a flash point of not less than 138.2 degrees shall be used in the facility and total aggregate dry load capacity of machines shall not exceed 60 pounds;

THAT there will be no storage of cans in the rear yard; THAT the above conditions shall be listed 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. NM 40/82)

Adopted by the Board of Standards and Appeals, June 14, 2005.

COMMUNITY BOARD #12BX

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 Chin.....4

MINUTES

Negative:.....
..0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in The City Record, and then to decision on June 14, 2005; and

WHEREAS, Community Board No.12, Bronx, recommends approval of the subject application; and

WHEREAS, on April 7, 1959, under calendar number 292-58-BZ, the Board granted a variance for Lot 44 for a term of fifteen years, to permit, in an R5(C2-2) zoning district, the erection of a gasoline service station, lubritorium, minor auto repairs, car washing, non-automatic, office, sale and the accessory parking of cars awaiting service; and

WHEREAS, the term of the variance for Lot 44 was initially 15 years, at various times since 1959, under the same calendar number, the Board has reopened the application to allow for other site modifications and term extensions, the last being granted on June 27, 1995; and

WHEREAS, on June 6, 2003, under the subject calendar number, the Board granted a special permit for Lots 44 and 41 to permit the legalization of enlargement of the zoning lot containing the existing automotive service station in order to encompass lot 41; and

WHEREAS, the applicant now seeks an amendment of the previous Board grant to permit the enlargement and conversion of the existing accessory service bays to an accessory convenience store; and

WHEREAS, the applicant states that the enlargement of the existing building will total 92 square feet; and

WHEREAS, the accessory convenience store shall operate twenty-four hours a day, seven days a week; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals re-opens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the enlargement and conversion of the existing accessory service bays to an accessory convenience store; on condition that all work and site conditions shall substantially conform to drawings filed with this application marked `Received May 31, 2005'- (5) sheets; and on further condition;

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

THAT graffiti located on the premises shall be removed

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for decision, hearing closed.

793-88-BZ

APPLICANT - Eric Palatnik, P.C., for 164 Willis Avenue Realty Corp., owner; RSV S/S Inc., lessee.

SUBJECT - Application December 1, 2004 and updated May 3, 2005 for an Amendment to a previously approved variance to a gasoline service station to construct a new convenience

within 48 hours;

THAT there shall be no parking of vehicles on the sidewalk or in such a manner as to obstruct pedestrian or vehicular traffic;

THAT plantings are installed along a portion of the lot line of Bussing Avenue, and that such plantings and the site be maintained;

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

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect;

THAT a new certificate of occupancy shall be obtained by October 21, 2005;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and 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. 200869916)

Adopted by the Board of Standards and Appeals, June 14, 2005.

364-87-BZ

APPLICANT - Sheldon Lobel, P.C. for B & V Realty, owner.

SUBJECT - Application January 7, 2005 and updated May 16, 2005 - Extension of Term/Waiver for an Automotive Repair Shop, located in a C2-2 within an R5 zoning district. PREMISES AFFECTED - 1710-1720 Flatbush Avenue, southerly intersection of East 34th Street and Flatbush Avenue, Block 7598, Lots 23,24, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING

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

Negative:.....
.....0

store located in an R6 zoning district.

PREMISES AFFECTED - 164/76 Willis Avenue, north east corner of 135th Street and Willis Avenue, Block 2280, Lots 1, 4, 5, 7, 76, Borough of The Bronx.

COMMUNITY BOARD #1BX

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING

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

MINUTES

Negative:.....
....0

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for decision, hearing closed.

162-93-BZ

APPLICANT - Fredrick A. Becker, Esq., for Chelsea Eighth L. P., owner; TSI West 16th Street dba New York Sports Club, lessee.

SUBJECT - Application December 22, 2004 and updated May 9, 2005 - Extension of Term and to legalize an Amendment to expand the floor area of previously granted special permit for a physical culture establishment, and a waiver of the rules of procedure for a late filing. The premises is located in a C2-5, R8 and C6-2M zoning district.

PREMISES AFFECTED - 270 West 17th Street, aka 124-128 Eighth Avenue, easterly side of Eighth Avenue between West 17th Street and West 16th Street, Block 766, Lots 36-41, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to August 23, 2005, at 10 A.M., for adjournment.

12-00-BZ

APPLICANT - Eric Palatnik, P.C., for Jack Meisels, owner.
SUBJECT - Application November 9, 2004 - Extension of time to complete construction and obtain a C of O permitting the enlargement of a one-family dwelling which was granted on October 17, 2000.

PREMISES AFFECTED - 1045 East 24th Street, east side of 24th Street, approximately 363' south of Avenue "J", Block 7606, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING

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

Negative:.....
..0

WHEREAS, a public hearing was held on this application on March 16, 2005 after due notice by publication in The City Record, with a continued hearings on April 19, 2005, May 17, 2005 and then to decision on June 14, 2005; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 1, Staten Island, opposed the granting of any relief to the applicant; and

WHEREAS, the subject premises consists of two lots fronting on North Burgher Avenue; and

WHEREAS, the subject premises is located within an

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

309-04-BZY & 310-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Steeplechase Building Corp, owner.

SUBJECT - Application September 13, 2004 - Application to extend time to complete construction for a major development as per Z.R. §11-331.

PREMISES AFFECTED -

65 North Burgher Avenue, east side, 630.42' south of Richmond Terrace, Block 158, Lot 173, Borough of Staten Island.

67 North Burgher Avenue, east side, 655.42' south of Richmond Terrace, Block 158, Lot 171, Borough of Staten Island.

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO CLOSE HEARING -

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

Negative:.....
.....0

THE VOTE TO GRANT -

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

Negative:.....
.....0

THE RESOLUTION -

WHEREAS, this is an application under Z.R. § 11-331, to renew a building permit and extend the time for the completion of the foundation of a major development under construction; and

R3A zoning district; and

WHEREAS, the subject premises is proposed to be developed with two two-story, two-family dwellings with detached basements; and

WHEREAS, however, on August 12, 2004 (hereinafter, the "Rezoning Date"), at approximately 1:30PM, the City Council voted to enact text changes to the Zoning Resolution in response to the recommendations of the Staten Island Growth Management Task Force, rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set

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forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and

WHEREAS, Z.R. § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates construction of two buildings on contiguous zoning lots, it meets the definition of Major Development; and

WHEREAS, the Board notes that this application was made on September 13, 2004, which is within 30 days of the Rezoning Date because the 12th of September fell on a Sunday, as required by Z.R. § 11-331; and

WHEREAS, the applicant represents that all of the

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$7,300 of the \$12,700 (or 57 percent) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and the walls, and excluding tree removal costs, excavation costs, other soft costs associated with development on the site, had been incurred as of the Rezoning Date; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is resolved that this application to renew New Building permit No. 500695606-01-NB pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on December 7, 2005.

relevant Department of Buildings' permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on August 10, 2004 a new building permit (Permit No. 500702395-01-NB; hereinafter, the "NB Permit") for one of the new buildings was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that, as of the Rezoning Date, substantial progress had been made on foundations; and

WHEREAS, the applicant represents that excavation of the site took place on August 10, 2004; and

WHEREAS, applicant represents that forms for the footings were put in on August 10, 2004, and the footings were completed on August 11, 2004; and

WHEREAS, in support of the contention that concrete for the footings was poured on August 11, 2004, the applicant has submitted a receipt from a concrete batching company reflecting the pouring of 12 yards of concrete, dated August 11, 2004; and

WHEREAS, the applicant further represents that forms for the remainder of the foundation were erected on the morning of August 12, 2004, prior to the enactment of the rezoning; and

WHEREAS, the applicant represents that the only remaining work on the foundations as of the Rezoning Date was the pouring of the walls; and

WHEREAS, the applicant has submitted an affidavit from the general contractor documenting the work completed on the proposed development as of the Rezoning Date and describing the remaining work necessary to complete the foundations; and

WHEREAS, the Board has the affidavit and the other evidence submitted, and agrees that they support the conclusion that excavation, the pouring of the footings, and the forms for the foundation walls were complete as of August 12, 2004; and

Adopted by the Board of Standards and Appeals, June 7, 2005.

25-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT - Application February 11, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 506 Bradford Avenue, south side, 148' south of Drumgoole Road, Block 6946, Lot 36, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

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For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for continued hearing.

26-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT - Application February 11, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 510 Bradford Avenue, south side, 108' south of Drumgoole Road, Block 6946, Lot 38, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for continued hearing.

325-04-A

APPLICANT -Rothkrug Rothkrug Weinberg Spector, for Kevin Kane, owner.

SUBJECT - Application October 4, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 91 Wakefield Road, west side, 825.19 north of Woods of Arden Road, Block 5415, Lot 85, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for continued hearing.

For Opposition: Janine A. Gaylard.

THE VOTE TO REOPEN HEARING

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

Negative:.....4
..0

THE VOTE TO CLOSE HEARING

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

Negative:.....4
..0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

347-04-BZY & 348-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Ana Canton Ramirez, owner.

SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

PREMISES AFFECTED -

3056 Cross Bronx Expressway, west side, 176.54' north of Sampson Avenue, Block 5443, Lot 71, Borough of The Bronx.

3058 Cross Bronx Expressway, west side, 119.70' north of Sampson Avenue, Block 5443, Lot 80, Borough of The Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0
.....0

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for decision, hearing closed.

397-04-A

APPLICANT - Petraro & Jones, LLP, for Jennifer Walker, owner.

SUBJECT - Application December 23, 2004 - An appeal to request the Board to determine that the apartment house at subject premises, is not a "single room occupancy multiple dwelling" and (2) nullify the Department of Buildings' plan review "objection" that resulted in this appeal application.

PREMISES AFFECTED - 151 West 76th Street, north side, 471' from the intersection of Columbus Avenue, Block 1148, Lot 112, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Steven Simiacich

22-05-A

APPLICANT - Dennis Dell'Angelo, President for Pleasant Plains, Richmond Valley, Civic Association for Joseph Galante, owner.

SUBJECT - Application February 7, 2005 - An appeal challenging the Department of Buildings' ("DOB") decision that approved and permitted the building of two (2) houses on a lot containing less than the required square footage as zoned for in the Special South Richmond District ("SSRD"), also this appeal is seeking to reverse the DOB' decision not to enforce §107-42 of the SSRD within NYC Zoning Resolution.

PREMISES AFFECTED -5728 Amboy Road and 3 Haynes Street, southeast corner, Block 6654, Lot 9, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant:.

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THE VOTE TO CLOSE HEARING

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

Negative:.....
..0

ACTION OF THE BOARD - Laid over to August 9,
2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 1:45 P.M.

REGULAR MEETING TUESDAY AFTERNOON, JUNE 14, 2005 2:00 P.M.

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

ZONING CALENDAR

138-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Cong. Machne
Chaim, Inc., owner; Yeshiva Bais Sorah, lessee.

SUBJECT - Application March 24, 2004 - under Z.R. §73-19

WHEREAS, the subject premises is located on 16th
Avenue between 61st and 62nd Street, and is currently
improved upon with a three-story, vacant building;

WHEREAS, the approximately 30,000 sq. ft. site is
owned by Cong. Machne Chaim, Inc., a not-for-profit
organization (the "Congregation"); and

WHEREAS, the Congregation currently runs a girls'
school, Bais Sara (the "School"), at 1353 50th Street,
Brooklyn, and wants to relocate the school to the subject
premises; and

WHEREAS, the applicant represents that the School
currently occupies a two-story building on a 10,000 sq. ft. lot,
and houses 650 kindergarten to eighth grade students; and

WHEREAS, the applicant represents that the subject
special permit, if granted, would allow the School to
accommodate its five-fold growth since its inception in 1995
and provide enough room for a planned high school with an
additional 200 students; and

to request a special permit for a school, Use Group 3, within
an M1-1 Zoning District to vary Z.R. §42-00 so as to permit
the school on the Premises.

PREMISES AFFECTED - 6101-6123 16th Avenue, 16th
Avenue between 61st and 62nd Streets, Block 5524, Lot 1,
Borough of Brooklyn.

COMMUNITY BOARD #11BK

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
Chin.....4

Negative:.....
.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough
Commissioner, dated February 24, 2004, acting on
Department of Buildings Application No. 301444168, reads:

"Proposed school, community facility, is not permitted
in a Manufacturing Zoning District, as per ZR 42-00.
Must be referred to the Board of Standards and
Appeals for use and bulk regulations."; and

WHEREAS, a public hearing was held on this
application on *** after due notice by publication in the
City Record; and then to decision on June 14, 2005; and

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

WHEREAS, Community Board 11, Brooklyn,
recommends approval of the subject application; and

WHEREAS, this is an application to permit the
proposed non-accessory operation of a school without
sleeping accommodations (Use Group 3), located within an
M1-1 zoning district, which requires a special permit
pursuant to Z.R. §§ 73-19 and 73-03; and

WHEREAS, the proposed new building will
accommodate eight to thirteen classrooms on each floor and
a roof-top activity area; and

WHEREAS, the applicant states that because many of
the students and teachers walk to the School at its current
location, it was necessary to find property that was located
in the same general vicinity as the current School; and

WHEREAS, the applicant represents that it retained a
broker and has searched since 1999 for a new piece of
property in the same area as the current School where the
proposed uses would be allowed; and

WHEREAS, certain sites were ultimately rejected
because the buildings were not large enough to
accommodate the current 550 students and the anticipated
200 additional students, and the programs of the School;

WHEREAS, the applicant states that an
appropriately-sized site in the area was rejected due to
environmental problems with the site that proved the

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building unusable for the required purpose; and

WHEREAS, the applicant maintains that the results of the site search show that there is no practical possibility of obtaining a site of adequate size for the school in a district where it is permitted as of right; and

WHEREAS, the applicant has demonstrated difficulty in obtaining land for the development of a school within the neighborhood to be served and with an adequate size, within districts where the school is permitted as-of-right, sufficient to meet the programmatic needs of the school; and

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (a) are met; and

WHEREAS, evidence in the record indicate that the proposed school is located within 400 feet of an R5 zoning district, where a school is permitted as-of-right; thus the Board finds that the requirements of Z.R. §73-19 (b) are met; and

WHEREAS, the applicant represents that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is provided through the use of sound-attenuating exterior wall and window construction, as well as substantial open areas along the street fronts; and

WHEREAS, the applicant has submitted evidence supporting the above representation; and

WHEREAS, the Board agrees that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is achieved through the use of sound attenuating exterior wall and window construction; thus, the Board finds that the requirements of Z.R. §73-19 (c) are met; and

WHEREAS, the applicant represents that children arriving and departing from the School will be protected from traffic on adjacent streets by traffic control measures in the area, including drop-off in front of the school, stop signs and painted crosswalks; in addition, the applicant represents that it will apply for a "No Parking" zone in front of the School upon approval of this application; and

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated March 24, 2004; (2) a Phase I Environmental Site Assessment Report, dated September 2002; (3) additional air quality and noise studies dated March 23, 2005 and June 9, 2005; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed on April 22, 2005 and recorded April 25, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined through their letter dated June 13, 2005 that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and air quality and noise assessments; 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

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (d) are met; and

WHEREAS, at the request of the Board, the applicant has also submitted information addressing the need for a rooftop recreation area based on input from the Department of Education; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-19; and

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-149K dated March 24, 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; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and 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 under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §§ 73-19 and 73-03 and grants a special permit to allow the proposed non-accessory operation of a school without sleeping accommodations (Use Group 3), located within an M1-1 zoning district, which requires a special permit pursuant to Z.R. §§73-19 and 73-03; 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 "May 31, 2005" - (8) sheets; and on further condition:

THAT the premises shall comply with all applicable fire safety measures, as required and as illustrated on the BSA approved plans;

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

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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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

174-04-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC for Harold Milgrim, Trustee.

SUBJECT - Application April 28, 2004 - under Z.R. §72-21 Proposed conversion of floors two through six, to residential use, Use Group 2, in an existing six-story commercial building, located in an M1-6 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124 West 24th Street, south side, between Sixth and Seventh Avenues, Block 799, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....
..0

THE VOTE TO CLOSE HEARING -

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

Negative:.....
..0

THE VOTE TO GRANT-

WHEREAS, the applicant represents that eight units of the building are currently occupied by conforming uses and the remaining twelve units are vacant; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: the building is obsolete for modern manufacturing in that it has small floor plates, only one passenger size elevator and no freight elevators, no central lobby to control access and provide security, no service entrance, old mechanical systems, and no loading docks; and

WHEREAS, the applicant concludes that these features combine to create unnecessary hardship and practical difficulties in using the building for a conforming use; and

WHEREAS, the applicant represents that upgrading the entire building to create a central lobby, new freight elevator, reconfiguration of the upper floors, and upgrade

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

Negative:.....
.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 23, 2004, acting on DOB Application No. 103766596 reads:

"The proposed residential (Use Group 2) at floors 2 through 6 is not permitted within a manufacturing zoning district (M1-6). It is contrary to Sec 42-00 (ZR)."; and

WHEREAS, a public hearing was held on this application on March 29, 2005 after due notice by publication in The City Record, with a continued hearing on May 17, 2005, and then to decision on June 14, 2005; and

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

WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an M1-6 zoning district, the residential conversion of the second through sixth floor of a six-story, commercial building, contrary to Z.R. § 42-00; and

WHEREAS, the subject zoning lot is located on West 24th Street between Sixth and Seventh Avenues, and has a total lot area of approximately 6,606 sq. ft.; and

WHEREAS, the site is improved upon with a six-story building, with a total floor area of 31,763 sq. ft.; and

WHEREAS, the applicant represents that the building was constructed in 1890 and was used primarily in connection with the garment industry; and of the mechanical systems would be cost-prohibitive and would reduce the amount and utility of the ground floor retail space and force the only long-term tenant of the building to move out; and

WHEREAS, the Board asked the applicant to establish that the cited building conditions were in fact unique by submitting a survey of neighboring buildings, showing whether such buildings were conforming and whether they had the same conditions as the subject building; and

WHEREAS, the applicant initially studied the area from West 23rd Street to West 25th Street, from 6th Avenue to 7th Avenue, but at the request of the Board expanded the area to include West 26th Street and West 27th Street; and

WHEREAS, the applicant represents that of the conforming use buildings in the surveyed area, all but four were significantly larger or significantly smaller than the conforming building; and

WHEREAS, in addition, the applicant represents

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that these different-sized conforming buildings contained a combination of necessary commercial amenities including central lobbies, multiple elevators, freight elevators, service entrances and loading docks; and

WHEREAS, of the four similarly sized buildings in the survey, the applicant represents that two contained residential uses and the other two contained commercial tenant amenities; and

WHEREAS, based upon the above, the Board finds that certain of the conditions cited by the applicant, namely the small floor plates, the limited elevator service and the square footage of the building, create unnecessary hardship and practical difficulties in strictly conforming with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant submitted a feasibility study that contemplates use of the existing building with retail on the ground floor and office units above, which purports to demonstrate that developing the premises in conformance with applicable district use regulations would not yield the owner a reasonable return; and

WHEREAS, at the request of the Board, the applicant analyzed (i) an enlarged office alternative that would include constructing additional floors because the building is currently under-built (4.81 floor area ratio out of potential 10.0 floor area ratio), and (ii) a conforming hotel development; and

WHEREAS, the applicant found that a conforming hotel development would not yield a reasonable return because the current layout of the building is not an efficient hotel layout and costs for renovation are extremely high; and

WHEREAS, the applicant represents that in the enlarged-office scenario only one floor could be added because the building is limited to the lesser of seven stories or 85 ft. in height due to limitations of a "combustible construction" classification, and submitted a letter from an architect to that effect; and

WHEREAS, in support of this representation, the applicant states that the neighborhood is a mixed use neighborhood, and that the premises adjoin a four-story community facility with sleeping accommodations and a rectory to the east, a five-story residential loft building to the west, a 12-story home for the blind, and a church to the south; and

WHEREAS, the rear lot line of the premises abuts a zoning district that allows for residential use; and

WHEREAS, the applicant also submitted a study that shows that in the area bounded by West 23rd Street to West 27th Street, and 6th Avenue to 7th Avenue, there are 54 legal residential uses out of 120 properties; and on 24th Street specifically, 15 out of 31 buildings contain residential uses; and

WHEREAS, the Board also notes that the applicant has submitted a letter from the architect that prepared the applicant's residential proposal that states that the building will comply with the requirements of Article 1, Chapter 5 of the Zoning Resolution and has included the same as a condition to this resolution; and

WHEREAS, the applicant further represents that construction of an additional floor of office space would not result in a reasonable return because costs associated with building only one additional floor would be cost-prohibitive compared to the amount of return that could be yielded from the addition of one floor; and

WHEREAS, the applicant also analyzed the value of the unused development rights as part of its analysis of what the value of the site is; and

WHEREAS, the Board expressed some skepticism as to the value of the unused development rights presented by the applicant; accordingly, at the request of the Board, the applicant further analyzed the unused development rights based on different valuations than those initially presented; and

WHEREAS, although the Board still had concerns about the valuation of the applicant's development rights, the Board did concur that based upon the feasibility study submitted to the Board by the applicant, a conforming development would not yield a reasonable rate of return; and

WHEREAS, additionally, the applicant submitted evidence of failed marketing attempts for conforming uses from 2002, 2003 and 2004; and

WHEREAS, the applicant notes that despite these marketing attempts over the past three years, 50% of the building is still currently vacant; and

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

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

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor 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, based upon the above, 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 04-BSA-179M dated April 28, 2004; and

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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, in an M1-6 zoning district, the residential conversion of the second through sixth floor of a six-story, commercial building, 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 June 13, 2005- (3) sheets; on further condition;

THAT the there shall be a maximum of 20 units;

THAT the floor area ratio shall not exceed 4.81;

THAT certain provisions of Article I, Chapter 5 of the Zoning Resolution shall be complied with, including §§ 15-11, Bulk Regulations, 15-111, Number of Permitted 7-14 130th Street, west side, Block 3980, Lot 74, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph Morsellino.

ACTION OF THE BOARD -Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, June 14, 2005.

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

Units, and 15-112 Light and Air Provisions;

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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

178-04-BZ thru 181-04-BZ

APPLICANT - Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT - Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage and minimum required open space is contrary to Z.R. §23-141.

PREMISES AFFECTED -

7-04 130th Street, west side, Block 3980, Lot 66, Borough of Queens.

7-06 130th Street, west side, Block 3980, Lot 68, Borough of Queens.

7-12 130th Street, west side, Block 3980, Lot 72, Borough of Queens.

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.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Miele.....4

Negative: Commissioner Chin.....1

THE RESOLUTION-

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 22, 2004, acting on

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Department of Buildings Application No. 301660931, reads, in pertinent part:

"Multiple Dwelling, Class A . . . is not permitted in R3-1 districts as per Z.R. 22-12.

Existing height and setback exceeds the allowable height and setback in R3-1 districts as per Z.R. 23-631 . . ."; and

WHEREAS, a public hearing was held on this application on October 19, 2004 after due notice by publication in the City Record, with continued hearings on December 14, 2004, February 1, 2005, March 1, 2005, April 12, 2005, May 24, 2005, and then to decision on June 14, 2005; 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, and Commissioners Miele and Chin; and

WHEREAS, Community Board 18, Brooklyn, recommends disapproval of this application; and

WHEREAS, this application was opposed by State Senator Kruger, Assembly Member Seddio, Council Member Fidler, the Mill Island Civic Association, and an assortment of community members; and

WHEREAS, certain other community members provided testimony at hearing in support of the application; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R3-1 zoning district, the proposed conversion of a non-conforming and non-complying warehouse/retail building to a multiple dwelling (with a ground floor doctor's office use), which is contrary to Z.R. §§22-12 and 23-631; and

WHEREAS, specifically, due to the proposed amount of units within the building under the current proposal, it meets the definition of a Multiple Dwelling, which is not permitted in the subject zoning district; and

WHEREAS, the premises is located on the northwest side of Strickland Avenue, extending from the

WHEREAS, the applicant currently proposes the creation of 43 single-family luxury residential units within the approximately envelope of the building (which will be reduced by approximately 2,640 sq. ft. due to various modifications undertaken by the developer to adapt the building to residential use); and

WHEREAS, the converted building will also feature a circular drive-up lobby and drop off area, 45 on-site parking spaces, and landscaped areas on the north and south sides of the building; and

WHEREAS, as represented by the applicant, the gross floor area is 60,939 sq. ft.; through a condition set forth below, the total F.A.R. shall be limited to 0.6; and

WHEREAS, the Board notes that the above number includes floor space occupied by mechanicals which would normally be deducted from zoning floor area; and

WHEREAS, the Board notes that with the mechanical deductions, the zoning floor area would be approximately 59,000 sq. ft., which is comparable to the floor area allowed under the R3-1 zoning district regulations (0.6 F.A.R.); and

avenue approximately 400 ft. in depth to the bulkhead line of the Mill Basin Channel; and

WHEREAS, the site has a lot area of 99,340 sq. ft., and is currently improved upon with a four-story, 76 ft., 9 inch high building, currently used as a warehouse and retail showroom, and formerly used a munitions factory (hereinafter, the "building"); and

WHEREAS, four cellular antennas of various sizes are currently installed either on the roof of the building, or on-site; these antennas are proposed to be removed when the building is converted to residential use; and

WHEREAS, additionally, there are certain free-standing, one-story buildings and other building sections located on the site, which are proposed to be removed; and

WHEREAS, tax lot 1090 is occupied by the building, and the open area around the building is part of tax lot 1091; access to the site from Strickland Avenue will be provided through a driveway easement over the adjacent tax lot 1100, which is the in same ownership as the subject site; and

WHEREAS, the applicant states that because of contamination resulting from the former munitions factory, the site is subject to an environmental contamination designation (know as an "e" designation), which requires that sampling and remediation occur prior to Department of Buildings permitting; and

WHEREAS, the Board notes that the "E" designation was not considered a unique hardship because several surrounding sites are also "E" designated; and

WHEREAS, because of this, the costs associated with addressing the "E" designation were disregarded for conforming development and lesser variance scenarios; and

WHEREAS, the applicant originally proposed a 45 unit scenario, with a ground floor restaurant as well as doctor's office space; and

WHEREAS, this original proposal identified an existing available gross square footage of 67,000 sq. ft.; the applicant proposed a renovation which included the demolition of the scattered structures and the reconfiguration of the existing building into a 5 story building; and

WHEREAS, this proposal contemplated the enlargement of the existing building through the allocation of floor area from the out buildings and building segments mentioned above (approximately 8,000 sq. ft. or 0.07 F.A.R.); and

WHEREAS, the original proposal also contemplated the alteration and enlargement of the building, by altering certain areas and reducing the floor area and then reallocating the carved out floor area to other portions of the building; and

WHEREAS, the Board objected to these two discrete instances of recapture of floor area, stating

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that there was no rationale for the recapture of any floor area from any of the buildings and building segments to be removed, nor from the areas within the building proposed to be altered; and

WHEREAS, specifically, the Board noted that the building was over-bulk to begin with, and that any reduction in the floor area in the proposed converted building would be a reduction in the degree of the non-compliance; and

WHEREAS, thus, at the direction of the Board, the floor area of these other buildings and building sections will not be allocated to the floor area within the proposed building upon conversion, nor will the floor area carved out of the building be reallocated to other areas of the building; and

WHEREAS, additionally, the Board asked the applicant to eliminate the fifth floor mezzanines and the restaurant; and

WHEREAS, accordingly, the applicant then modified the application to the current proposal, eliminating the reallocation floor area from the removed out buildings, the reallocation of floor area carved out of the existing building, as well as the proposed restaurant; 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 conformance and compliance with underlying district regulations: (1) the building as it exists now is obsolete for commercial or manufacturing purposes; and (2) demolition of the building in preparation of conforming/complying development would be cost-prohibitive; and

WHEREAS, the applicant states the existing building is obsolete because its various portions were constructed at different times, leading to different heights and floor levels, as well poor interconnections that lead to inefficient circulation, all of which render it infeasible for use by a modern manufacturing or commercial

WHEREAS, specifically, the Board questioned the site valuation, which initially was approximately 10.3 million dollars, an amount that appeared to be excessive; and

WHEREAS, over the course of the hearing, the applicant made some reductions in the site valuation, ultimately accepting the Board's direction to use a more appropriate methodology and superior comparable sales, which reduced the site valuation to approximately 6.3 million dollars; and

WHEREAS, the Board also expressed concerns about the sell-out period and valuations utilized in the feasibility studies associated with the various presented scenarios; and

WHEREAS, again, the applicant ultimately modified the sell-out period and valuations to levels considered appropriate by the Board; and

WHEREAS, further, the Board noted that it appeared that real estate taxes and water and sewer costs had been double-counted in the feasibility study;

enterprise; and

WHEREAS, the applicant states demolition of the building would be necessary to create a conforming/complying development of single or two family homes; and

WHEREAS, the applicant has established, through a cost estimate from a demolition company, that the costs associated with such demolition are approximately 2.5 million dollars (although a more conservative figure of 1.2 million was used in the feasibility study, as discussed below); and

WHEREAS, the applicant concludes that the cost of the demolition would render any complying development infeasible; and

WHEREAS, thus, the Board concludes that the applicant has credibly established that: (1) continued use of the building as a lawful non-conforming use is infeasible; and (2) that the costs associated with the demolition of the building would render any complying development infeasible; and

WHEREAS, additionally, the applicant established through an analysis that there are very few similarly constrained sites in the area; and

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

WHEREAS, the applicant submitted an initial feasibility study that analyzed the original proposal discussed above, an "as-is" residential conversion, a community facility, and new conforming and complying residential development; and

WHEREAS, upon initial review of this study, and over the course of the public hearing process, the Board expressed concerns with certain valuations and methodology used by the applicant's feasibility expert; and

the applicant addressed this problem by making the requested corrections in the feasibility study; and

WHEREAS, near the end of the hearing process, the applicant finally submitted a feasibility study, dated April 6, 2005, that incorporated the above-mentioned Board directions; and

WHEREAS, based upon this feasibility study, the applicant concluded that no conforming/complying development would realized a reasonable return; and

WHEREAS, the Board agrees with this conclusion, noting that the cost of the demolition of the building (conservatively estimated at 1.2 million) coupled with the inherently greater construction costs associated with new conforming/complying development versus those associated with a conversion of the building, render conforming/complying development infeasible; and

WHEREAS, moreover, based upon its own analysis, the Board notes that even when using a more conservative site valuation than that proposed by the

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applicant, each conforming/complying development scenario would still not realize a reasonable return; and

WHEREAS, at the request of the Board, the applicant submitted monthly income amounts from the cellular antennas; and

WHEREAS, the Board has determined that the amount is negligible and does not affect the financial analysis; and

WHEREAS, opposition to this application criticized the applicant's feasibility studies in a letter dated April 7, 2005 (hereinafter, the "opposition letter"); and

WHEREAS, specifically, the opposition letter questioned whether the owner-developer of the building would sell it after receiving a variance; and

WHEREAS, the Board observes that a property owner may sell before or after any BSA action, and it is common for owners to convey properties, after a variance is granted, to contract vendees, and that this does not implicate any of the findings required for a variance, as the acquisition value (the site valuation) is based upon comparables, not actual acquisition cost; and

WHEREAS, the opposition letter also states that the profit on one of the studied scenarios is understated; and

WHEREAS, however, the opposition letter fails to properly fold in base construction costs, demolition costs, and remediation costs; moreover, the opposition does not consider the site valuation of \$6.3 million, or the associated soft costs of 3.1 million; and

WHEREAS, moreover, the opposition letter does not have the total sales proceeds correctly noted, nor does it consider sales expenses of \$1,020,000; and

WHEREAS, in analyzing the proposed scheme, the opposition letter again improperly does not consider soft costs and the site value of as overall development costs; and

WHEREAS, for these reasons, the Board does not find the opposition letter persuasive; and

WHEREAS, finally, opposition to this application suggested that the proposed scenario would be unlikely to realize a reasonable return as the contaminant clean-up costs associated with the building's conversion

WHEREAS, the stated bases of hardship - the obsolescence of the building and the premium demolition costs - are not self-created; and

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

WHEREAS, at the request of the Board, the applicant analyzed numerous lesser variance alternatives that contemplated the demolition of the building; and

WHEREAS, specifically, the evaluated scenarios were: (1) 17 oversized two-family, semi-attached homes (0.72 F.A.R.); (2) 11 luxury single-family homes (0.33 F.A.R.); (3) 17 three-story, two-family homes (over 1.0 F.A.R.); and (4) 76 units of two-family attached homes (close to 1.5 F.A.R.); and

WHEREAS, in the above-referenced April 6, 2005 feasibility study, the applicant concluded that none of

would be significant, a factor that opposition alleges the applicant failed to consider; and

WHEREAS, the applicant responded by discussing the costs for removal of asbestos, lead or other contaminants as part of the conversion, and included these costs in the feasibility study as construction costs; and

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

WHEREAS, the applicant states that subject residential conversion will not adversely affect the character of the neighborhood or the future development of the surrounding area, nor will it affect appropriate use or development of adjacent property, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant also observes the conversion will eliminate a non-conforming use, and rehabilitate a building that is dilapidated in appearance; and

WHEREAS, the applicant further notes that directly across Strickland Avenue is an R5 zoning district, where residential multiple dwellings are permitted as-of-right; and

WHEREAS, the Board has reviewed the submitted land use map and conducted its own site visit, and has determined that the residential conversion of the building will not negatively affect the adjacent uses or the character of the neighborhood, given that the proposed amount of units is not significantly over what is permitted on the site, and given that no enlargement of the building is contemplated; and

WHEREAS, based upon the above, 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

these scenarios were feasible, due to the hardship costs associated with the demolition of the existing building; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; 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-194K, dated July 26, 2004; and

WHEREAS, the EAS documents that the project

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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; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; 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, with the condition stipulated below and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. §72-21, to permit, within an R3-1 zoning district, the proposed conversion of a non-conforming and non-complying warehouse/retail building to a multiple dwelling (with a ground floor doctor's office use), which is contrary to Z.R. §§ 22-12 and 23-631; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked 'Received May 2, 2005'- (5) sheets; and on further condition:

THAT the total F.A.R. on the site shall be limited to 0.60; and

THAT there shall be a maximum of 43 units in the building;

THAT a total of 45 accessory parking spaces shall be provided in the accessory parking area;

THAT no cellular antennas shall be placed on the roof of the building or elsewhere on the site;

WHEREAS, the decisions of the Bronx Borough Commissioner, dated November 19, 2004, acting on Application Nos. 200920539 and 200920520 read respectively:

"Proposal to re-establish a use group # 16 gasoline service station with accessory auto repairs, accessory parking for cars awaiting service and storage space for not more than eleven (11) motor vehicles on a site previously before the Board of Standards and Appeals and now located in a C1-3 within an R6 zoning district is contrary to section 32-00 Z.R. and contrary to C.O. 53277 and must, therefore, be referred back to the BSA for approval."; and

"Proposal to re-arrange the islands, erect a new canopy over the gasoline dispensers and convert a portion of the existing sales area to an attendant's area in connection with the re-establishment of a use group # 16 gasoline service station with accessory auto repairs, accessory parking for cars awaiting service and storage space for

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, June 14, 2005.

390-04-BZ

APPLICANT - Walter T. Gorman, P.E., for J R & J Auto Corp., owner.

SUBJECT - Application December 13, 2004 - under Z.R. §72-21, the reestablishment of a gasoline service station, Use Group 16, motor vehicles, located in a C1-3 within an R6 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 2290 Boston Road, southeast corner of Astor Avenue, Block 4343, Lot 31, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES -

For Applicant: John Ronan

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

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

Negative:.....0

THE RESOLUTION -

not more than eleven (11) motor vehicles on a site previously before the Board of Standards and Appeals and now located in a C1-3 within an R6 zoning district is contrary to section 32-00 Z.R. and contrary to C.O. 53266 and must, therefore be referred back to the BSA for approval."; and

WHEREAS, a public hearing was held on this application on April 19, 2005 after due notice by publication in the City Record, with a continued hearing on May 24, 2005, and then to decision on June 14, 2005; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, within a C1-3 within an R6 zoning district, the re-establishment of an expired variance, previously granted under Calendar Numbers 331-32-BZ and 783-67-BZ, which permitted a gasoline service station with accessory auto

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repairs and accessory parking for cars awaiting service for not more than eleven (11) motor vehicles, and to amend the prior grant to permit a re-arrangement of the islands, erection of a new canopy over the gasoline dispensers, and conversion of a portion of the existing sales area to an attendant's area, contrary to Z.R. §32-00; and

WHEREAS, the current proposal contemplates the re-establishment of a use group 16 gasoline service station with three (3) new multi-product dispensers on new concrete islands, three (3) new 4,000-gallon capacity double-walled underground storage tanks, accessory auto repairs, accessory parking for cars awaiting service, and a storage area for not more than eleven (11) motor vehicles; and

WHEREAS, under Cal. No. 331-32-BZ Vol. III, the Board initially granted a variance dated September 23, 1932 to permit the erection and maintenance of a gasoline service station; reconstruction of this service station was approved by the Board on December 12, 1967, under Cal. No. 783-67; and

WHEREAS, the most recent Board resolution related to this property was dated June 23, 1981, in which the Board extended the term of the variance for a period of ten (10) years until April 4, 1991, and amended the resolution to permit the accessory parking and storage of motor vehicles for up to eleven (11) spaces in the rear of the property; and

WHEREAS, the applicant represents that through their record search made at the New York City Fire Department, there are three (3) 350-gallon capacity tanks that were installed in April of 1943, three (3) 550-gallon capacity tanks that were installed in October of 1949, two (2) 550-gallon tanks that were installed in April of 1951, and four (4) 550-gallon capacity tanks that were installed in June of 1957; and

WHEREAS, the applicant further indicates that the New York City Fire Department's records establish that ten (10) 550-gallon tanks were temporarily sealed in September of 1984, no tanks were removed from the site, and one (1)

WHEREAS, the applicant represents that residential development is not appropriate for this site because the site is immediately adjacent to an elevated subway line, and because the predominant type of residential buildings in the surrounding neighborhood are high rise buildings and the site is not large enough to accommodate a high rise building; and

WHEREAS, the applicant further represents that retail development at the site would not be feasible because the site is in relative isolation from the other commercial establishments in the area; and

WHEREAS, the Board agrees that developing the site with a conforming development would not yield a reasonable return; and

WHEREAS, the record indicates that the surrounding area is characterized by a mixture of residential high rise buildings and smaller commercial buildings; and

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

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

WHEREAS, the Board finds that the variance is the

550-gallon waste oil tank was installed at the site and the latest testing occurred at the site in March of 1990; and

WHEREAS, the applicant represents that although the gasoline service station use was discontinued at some point, the auto repair shop is still in active use;

WHEREAS, when initially approved, the site was located in a C1-3 zoning district, and currently, the site is located in a C1-3 within an R6 zoning district; and

WHEREAS, the premises is located on the south side of Boston Road on the southeast corner of Astor Avenue; and

WHEREAS, the site is located at the merger of two major arterials, White Plains Road and Boston Road; and

WHEREAS, the applicant represents that the location of the premises at this location leads to a "sawed-off" frontage, and that unlike the other commercial buildings on White Plains Road, the frontage of the subject property lies along an obtuse angle to the other frontages along White Plains Road; 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 compliance with underlying district regulations: (1) the premises is located at the intersection of two major arteries and is not accessible by foot; and (2) the Board has granted variances on this site for automotive uses since the early 1930's; and

WHEREAS, the Board finds that the zoning lot's irregular location and the aforementioned history of use with non-conforming Board approved uses create an unnecessary hardship in developing the zoning lot in conformity with the current zoning regulations; and

WHEREAS, the Board asked the applicant to consider whether a residential use on this site would be feasible; and

minimum variance necessary to afford 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 has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

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

THEREFORE, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration with specific conditions as noted below, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within a C1-3 within an R6 zoning district, the re-establishment of an expired variance, previously granted under Calendar Numbers 331-32-BZ and 783-67-BZ, which permitted a gasoline service station with accessory auto repairs, and accessory parking for cars awaiting service for not more

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than eleven (11) motor vehicles, and to amend the prior grant to permit a re-arrangement of the islands, erection of a new canopy over the gasoline dispensers, and conversion of a portion of the existing sales area to an attendant's area, contrary to Z.R. §32-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 31, 2005"-(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 the above conditions shall be noted in the Certificate of Occupancy;

THAT landscaping shall be provided on the easterly and southerly lot lines, as indicated on the BSA-approved drawings;

THAT there shall be no storage of cars or trucks on the site;

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, June 14, 2005.

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 9, 2005, acting on Department of Buildings Application No. 301397771, reads:

"Proposed plans are contrary to 24-11 in that the proposed Lot Coverage exceeds the permitted.

Proposed plans are contrary to Z.R. 24-522 in that the proposed Maximum Height of Front Wall exceeds 60'-0".

Proposed plans are contrary to Z.R. 24-522 in that the sky exposure plane exceeds 5.6:1."; and

WHEREAS, a public hearing was held on this application on May 24, 2005 after due notice by publication in the City Record, and then to decision on June 14, 2005; and

WHEREAS, Community Board 14, Brooklyn, State Assembly Member Jacobs and Council Member Nelson recommend approval of this application; 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, and Commissioners Miele and Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a site within both an R4 and R6 zoning district, the proposed enlargement of an existing religious school, which

401-04-BZ

APPLICANT - Eric Palatnik, P.C., for Masores Bais Yaakov, owner.

SUBJECT - Application December 28, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing yeshiva, Use Group 3, located in an R4 & R6 zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, wall height and the sky exposure, is contrary to Z.R. §24-11 and §24-522. PREMISES AFFECTED - 1395 Ocean Avenue, northeast corner of Avenue "I", Block 7566, Lot 6, 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 and Commissioner Chin.....4

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT-

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

Negative:.....0

THE RESOLUTION -

does not comply with the zoning requirements for lot coverage, wall height and sky exposure plane, contrary to Z.R. §§ 24-11 and 24-522; and

WHEREAS, this application is brought on behalf of Masores Bais Yaakov., a not-for-profit entity, (hereinafter, the "School"); and

WHEREAS, the School is an educational institution that serves the educational needs of approximately 750 young woman; and

WHEREAS, the subject site is a 110 ft. by 90 ft. lot located on the northeast corner of Avenue I and Ocean Avenue; and

WHEREAS, the site is currently occupied by a structure that was formerly an approximately 46 ft. high, two-story building with 18,290 sq. ft. of floor area, which is currently being enlarged as-of-right under a valid permit; and

WHEREAS, the applicant proposes to enlarge the building to six stories, with an overall height of 83 ft., 6 inches and a total floor area of 47, 831 sq ft. (4.62 F.A.R.), which complies with the applicable floor area regulations; and

WHEREAS, the size of the lot will also be expanded

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by approximately 450 sq. ft., by extending the zoning lot five feet into a lot in the R4 zoning district at the eastern side of the premises to allow for an elevator shaft; the adjacent lot is under the same ownership as the School site; and

WHEREAS, construction of the enlargement will result in the following non-compliances: (1) a lot coverage of 0.85; 0.68 is the maximum permitted; (2) a front wall height of 83' - 6"; 60' is the maximum permitted; and (3) non-compliance with the 5.6:1 sky exposure plane requirement; 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 compliance with underlying district regulations: the existing building was too small to accommodate the current and proposed program of the School, lacks appropriate elevators, and is not ADA compliant, and the subject site is one of the only suitable sites in close proximity to where the majority of the student body resides; and

WHEREAS, the applicant also claims that the proposed enlargement is necessary to meet the programmatic needs of the School; and

WHEREAS, specifically, the applicant states that the School formerly operated with just 22 classrooms, no gymnasium, no cafeteria, and negligible office and storage space; and

WHEREAS, the applicant states that the existing auditorium was used for all of the above uses; and

WHEREAS, the proposed enlargement contemplates the creation of teacher and administrative office space, storage space, a larger auditorium, a gymnasium, and increased classroom space; and

WHEREAS, the applicant states that the need to create a

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 School 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. 05-BSA-078K dated March 14, 2005 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; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and

gymnasium precipitates the need for the setback waiver as to the R6 portion of the site, as a gym requires certain height dimensions to be usable; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical conditions, when considered in conjunction with the programmatic needs of the School, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant notes, and the Board's site visit confirms, that the site is near to numerous comparably sized or larger buildings, including a 16 story multiple dwelling across Avenue I and six story multiple dwellings extending in both directions along Ocean Avenue, as ; and

WHEREAS, the applicant also states the 75% of the student arrive and depart by bus and are loaded and offloaded at designated bus loading zones on each of the site's street frontages; the remaining 25% of the students walk to the School; and

WHEREAS, crossing guards are utilized to assist the students who must cross intersections; 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 the required findings under Z.R. § 72-21, to permit, on a site within both an R4 and R6 zoning district, the proposed enlargement of an existing religious school, which does not comply with the zoning requirements for lot coverage, wall height and sky exposure plane, contrary to Z.R. §§ 24-11 and 24-522; 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 June 12, 2005" - twelve (12) 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

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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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

4-05-BZ

APPLICANT - Sheldon Lobel, P.C., for V.G.F. Property, LLC, owner.

SUBJECT - Application January 12, 2005 - under Z.R.§73-49, to permit parking on the roof of an as-of-right commercial building located in an M1-1 zoning district. The application seeks to create 114 rooftop parking spaces.

PREMISES AFFECTED - 69-02 Garfield Avenue, south side, between 69th Street and 69th Place, Block 2438, Lot 20, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

WHEREAS, the subject site is a 22,679 square foot lot located on the south side of Garfield Avenue, fronting on the east side of 69th Street and the west side of 69th Place in the Woodside section of Queens County, and is currently improved upon with a 19,732 two-story vacant building; the building was previously occupied by a school supply wholesale establishment; and

WHEREAS, the proposal is to enlarge the existing building to accommodate a proposed catering establishment (Use Group 12); and

WHEREAS, the applicant states that the area surrounding the site is mixed-use: (1) uses to the north and east of the subject property along 69th Street and Garfield Avenue include several auto body shops, with some storage facilities and wholesale establishments; (2) primary uses north of the site along 69th Avenue are commercial, with an auto body shop directly across the street from the site on Garfield Avenue; and (3) the predominant use along 69th Avenue south of Garfield Avenue is residential; and

WHEREAS, the applicant further represents that because the site is zoned M1-1, uses listed in Use Groups 4-14, 16 and 17 are permitted; the proposed catering hall is permitted as-of-right in this zoning district because it is Use Group 12; and

WHEREAS, the Board notes that the number of allowed

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

Negative:.....0

THE VOTE TO GRANT-

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 6, 2005, acting on Department of Buildings Application No. 402065224, reads, in pertinent part:

"1. Proposed roof parking is not permitted as per section 36-11 and 44-11 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in The City Record, laid over to June 14, 2005 for decision; and

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

WHEREAS, Community Board No. 2, Queens, recommends approval of the subject application; and

WHEREAS, this is an application under Z.R. § 73-49, for a special permit to allow, in an M1-1 zoning district, accessory rooftop parking (102 spaces) for a proposed as-of-right catering facility in a commercial building, contrary to Z.R. § 36.11; and

parking spaces will be calculated as-of-right as approved by the Department of Buildings, assuming the Board grants the special permit; and

WHEREAS, pursuant to Z.R. §73-49, the Board may permit accessory off-street parking spaces on the roof of a building in the subject zoning district, as long as such roof parking is located so as not to impair the essential character or the future use or development of adjacent areas; and

WHEREAS, the applicant represents that the rooftop parking area will not impair the essential character or the future use or development of the adjacent area because the site is zoned for manufacturing and the area surrounding the site is mixed use; and

WHEREAS, the applicant notes that the proposed accessory rooftop parking will benefit the adjacent area by alleviating any potential parking congestion that may otherwise be created by the building's use; and

WHEREAS, the applicant further notes that the amount of traffic brought into the area will not change as a result of the requested special permit; rather, vehicular congestion will be alleviated by reducing the on-street parking congestion; and

WHEREAS, finally, the applicant states that the proposed use will not have an adverse affect on the privacy, quiet, light or air in the neighborhood because: (1) the

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building is not taller, nor any larger in bulk, than is permitted as-of-right; (2) lighting on the roof will be directed away from the adjoining properties; and (3) a 4' 11" parapet on the roof will conceal the vehicles on the rooftop from the adjoining properties so as to minimize and headlight impact upon surrounding uses; and

WHEREAS, therefore, the Board finds that the proposed roof parking 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 is 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. §§ 73-49 and 73-03.

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. 05-BSA-080Q dated January 12, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land

THAT the parking layout, including the total number of permitted spaces, 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 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. 402065224)

Adopted by the Board of Standards and Appeals, June 14, 2005.

32-05-BZ

APPLICANT - Law Office of Howard Goldman, for Rivendell School, owner.

SUBJECT - Application February 24, 2005 - under Z.R. §72-21 to permit the proposed relocation and expansion of an existing not-for-profit school, located in an R6B zoning district, which does not comply with the zoning requirements for lot coverage, is contrary to Z.R. §24-11 and §52-31.

PREMISES AFFECTED - 288 7th Street, between Fourth and Fifth Avenues, Block 998, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #6BK

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 *** 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. §§ 73-49 and 73-03, for a special permit to allow, in a M1-1 zoning district, accessory parking on a building to be occupied by a proposed as-of-right catering hall, contrary to Z.R. § 36-11; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received June 6, 2005" -(5) sheets and "Received June 14, 2005" - (1) sheet; and on further condition;

APPEARANCES -

For Applicant: Emily Simon.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 18, 2005, acting on Department of Buildings Application No. 301823668, reads:

"The proposed enlargement of an existing building containing a non-conforming use and conversion to a complying use will result in a lot coverage exceeding 65% contrary to Sections 24-11 and 52-31 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in the City Record, and then to decision on June 14, 2005; and

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

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R6B zoning district, a proposed not-for-profit school, which does not comply with the

MINUTES

zoning requirements for lot coverage, contrary to Z.R. §§ 24-11 and 52-31; and

WHEREAS, this application is brought on behalf of the Rivendell School, a not-for-profit entity (hereinafter, the "School"); and

WHEREAS, the School is an educational institution that provides evaluation, teaching and clinical services for young children, including children with special needs (about 15%-20% of the students), and their families; and

WHEREAS, the Community Board 6, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on 7th Street between 4th and 5th Avenues, with a total lot area of 3,175 sq. ft., and is currently improved upon with a two-story vacant building with a total floor area of approximately 2,000 sq. ft.; and

WHEREAS, the existing building was built over 100 years ago to be used as a dairy stable, and then was used to store trucks; and

WHEREAS, the applicant proposes to enlarge the building and construct a third floor resulting in a total building floor area of 6,350 sq. ft., to house additional classrooms, a gymnasium, offices, a kitchen facility and evaluation and therapy rooms; and

WHEREAS, the applicant also proposes a roof-top play

WHEREAS, the applicant states that the following are the programmatic needs of the School, all of which have been driven by an increase in enrollment from the current 55 students to an estimated 75 students, and the special needs of the children with handicaps or learning disabilities: (1) increased classroom space; (2) increased number of resource rooms for students with special needs; (3) space for a library and staff workroom; (4) kitchen facilities; (5) additional office space; (6) a gymnasium/conference room; and (7) an outdoor rooftop playground; and

WHEREAS, the applicant represents that the School requires a unique configuration of classroom space to allow for viewing rooms alongside traditional classrooms so that special education teachers and therapists can observe and evaluate the special needs students in a non-invasive manner; and

WHEREAS, in addition, the applicant represents that the increase in lot coverage will allow for an enlargement along the adjacent portion of the lot that will result in a second means of egress and improved vertical circulation; and

WHEREAS, the applicant further states that the degree of waiver is driven by the requirement to provide a streetwall along 7th Street and the positioning of the core in relation to the existing building and layout of classroom/program space; and

WHEREAS, the applicant also states that the proposed arrangement will allow for a congregation area for students at the entrance of the building on 7th Street; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the School, create practical difficulties and unnecessary hardship in developing the site in

area; and

WHEREAS, construction of the addition as currently proposed will result in the following non-compliance: an increase in the lot coverage percentage from 68% to 88% (60% is the maximum permitted); and

WHEREAS, the applicant represents that the proposed enlargement will still be within the allowable floor area ratio for the zoning district; 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 compliance with underlying district regulations: the School building has insufficient space and functionality necessary for its programmatic needs as it was built to be a dairy and not designed to accommodate a School and the resulting programmatic needs; and

WHEREAS, the applicant represents that the building has a narrow floor plate width of 21 ft., 9 in., and that there is no heating facility, an obsolete electrical system, and a single bathroom for the entire facility; and

WHEREAS, the applicant further represents that all of the building's walls, floors and roof will have to be replaced, and the building will have to be equipped with sprinklers and made handicap accessible; and

strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant states that the height of the School building follows the contextual envelope of the neighborhood and will be compatible with the three- and four-story brownstones, row houses and small multiple dwellings that characterize the neighborhood; and

WHEREAS, the applicant states that the Building will keep the existing façade to keep with the historic context of the neighborhood; and

WHEREAS, the applicant represents that traffic impacts will be minimal, as most of the students live within walking distance of the School; 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, accordingly, the Board finds that this proposal is the minimum necessary to afford the School 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

Therefore it is Resolved, that the Board of Standards

MINUTES

and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 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. §72-21, to permit, within an R6B zoning district, the proposed not-for-profit School, which does not comply with the zoning requirements for lot coverage, contrary to Z.R. §§ 24-11 and 52-31; 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 May 24, 2005" - eight (8) sheets; and on further condition:

THAT the roof top playground shall meet all legal requirements, as determined 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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

Negative:.....
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THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 3, 2005, acting on Department of Buildings Application No. 301900833, reads:

"Proposed two story addition for barrier free access elevator in required front yard (10 ft. required) in R-5 District is non-compliant (Z.R. 24-34)

Proposed street wall height of 33.66 ft. (32.5 maximum allowed) is non-compliant (Z.R. 77-28).

Proposed lot coverage of 72% (55% maximum allowed) in R-5 district is non-compliant (Z.R. 24-11)."; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in the City Record, and then to decision on June 14, 2005; and

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

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R5 and R5/C1-2 zoning district, the proposed two-story addition to an existing not-for-profit educational institution for developmentally disabled children, which does not comply with the zoning requirements for lot coverage, front yard and street wall height, contrary to Z.R. §§ 24-11, 24-34 and 77-28; and

WHEREAS, this application is brought on behalf of Otsar, Inc., a not-for-profit entity, that established the Early Childhood Center in 1991 (hereinafter, the "School"); and

WHEREAS, the School is an educational institution that serves the special educational needs of 90 developmentally disabled boys and girls, from age 2 to 5-1/2; and

WHEREAS, the Community Board 13, Brooklyn, and

63-05-BZ

APPLICANT -Carole S. Slater, Esq., Slater & Beckerman, LLP for Otsar, Inc., owner.

SUBJECT - Application March 15, 2005 - Variance pursuant to Section 72-21 of the Zoning Resolution, to permit a two-story addition to a not for profit educational institution for developmentally disabled children, within R5 and R5/C1-2 Zoning Districts to vary Sections 24-11, 24-34, and 77-28 of the Resolution.

PREMISES AFFECTED -2324 West 13th Street between Avenue W and Avenue X; distance of 150 feet south of Avenue W, Block 7160, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES -None.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

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

Council Member Recchia recommend approval of this application; and

WHEREAS, the subject site is located on West 13th Street between Avenue W and Avenue X, and is currently improved upon with a two-story house of worship with accessory day care classrooms with a total floor area of approximately 9,135 sq. ft.; and

WHEREAS, the School wishes to expand and become the primary use on the zoning lot; and

WHEREAS, the applicant proposes to enlarge the building and construct a two-story addition in the front yard of the building for a total building floor area of 9,435 sq. ft., to accommodate a barrier free elevator, a therapy room, and a trash room; and

WHEREAS, construction of the addition as currently proposed will result in and/or increase the following non-compliances for the portion of the lot that is located in the R5 zoning district: decrease in front yard from 9 ft. to no front yard (10 ft. is required); a lot coverage percentage increase from 65.4% to 72% (55% is the maximum permitted); and street wall height increase from 31.39 ft. to 33.6 ft. (32.5 ft. is the maximum permitted); and

WHEREAS, the zoning lot is 100 ft. in depth and 79.90 ft. in width; 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 compliance with underlying district regulations: the lot is a small zoning lot; and the building on the lot was not created to be handicap accessible, and therefore does not meet the programmatic needs of the School; and

WHEREAS, the applicant represents that the facility is required to be handicap accessible as per New York City

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and New York State law; and

WHEREAS, currently, there is no access to vertical circulation from the street; therefore, the School's staff pushes the non-ambulatory students up a 50 ft. ramp to access the main floor program area; in instances where special therapies are required, wheelchair students must be carried up the stairs to the second floor or down to the cellar; and

WHEREAS, the applicant contemplated placing the elevator in the center of the building, but found that based on the school's ongoing operations and the fact that handicap students would not have access to the elevator from the street, the placement of the elevator in the center of the building was infeasible; and

WHEREAS, the applicant represents that in placing the vertical circulation in the front yard, they have proposed matching the street wall to make the building compatible with other buildings on the block; and

WHEREAS, the applicant represents that because of these programmatic needs, the applicant requires a lot coverage waiver and a street wall height waiver for the R5 portion of the zoning lot; and

WHEREAS, the applicant represents that immediately adjacent to the premises are commercial uses including retail stores, and to the north and south of the premises are community facilities owned and operated by Otsar; and

WHEREAS, the applicant further represents that on the West 13th Street frontage immediately south of the premises, the buildings are predominantly three stories, and a mix of two and three-story residential buildings are across from the premises, and accordingly, the height of the School building will be compatible with other buildings that characterize the neighborhood; and

WHEREAS, certain adjoining property owners spoke at the hearing about concerns they had related to the School and other properties owned by Otsar, including noise issues from an air conditioner and traffic issues related to automobile and bus drop-off and pick-up; and

WHEREAS, the applicant represents in a letter dated May 26, 2005 that they have met with the adjoining property owners and discussed issues regarding an air conditioner unit in another building owned by the applicant, and the bus and automobile drop-off and pick up points for students; 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, accordingly, the Board finds that this proposal is the minimum necessary to afford the School 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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 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. § 72-21, to permit,

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the School, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant is currently replacing a non-complying structure in the rear of the building with an as-of-right one-story structure; and

WHEREAS, the applicant represents that the neighborhood is a mixed-use neighborhood; and within an R5 and R5/C1-2 zoning district, the proposed two-story addition to an existing not-for-profit educational institution for developmentally disabled children, which does not comply with the zoning requirements for lot coverage, front yard and street wall height, contrary to Z.R. §§ 24-11, 24-34 and 77-28; 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 May 26, 2005" - five (5) sheets and "Received June 3, 2005" - four (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; 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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

82-05-BZ

APPLICANT - Adrienne W. Bernard, Esq., Fried, Frank, Harris, Shriver & Jacobson, LLP, for Association to Benefit Children, owner.

SUBJECT - Application April 5, 2005 - pursuant to Z.R. § 73-19, to allow an existing child care facility accessory to a not-for-profit community service organization to operate as a Use Group 3A school, within an M1-2 and R7-2 Zoning District and to vary Section 42-12 of the Resolution.

PREMISES AFFECTED - 1841 Park Avenue (a/k/a 101 East 126th Street), Northeast corner of Park Avenue and

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East 126th Street, Block 1775, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES -

For Applicant: Molly Dunham.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

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

Negative:.....
..0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 6, 2004, acting on Department of Buildings Application No. 200821780, reads:

"Proposed day care center (school) use group 3A is not permitted as of right in an M1-2 zoning district.

WHEREAS, the subject premises is located on the northeast corner of the intersection of Park Avenue and East 126th Street, and is currently improved upon with an approximately 21,000 sq. ft. former warehouse building currently occupied by a community facility, operated by the Association to Benefit Children ("ABC"), a not-for-profit organization; and

WHEREAS, ABC's facility at this location is known as Echo Park, and includes, among many other social services, an accessory day care center for its staff and clients, which is permitted as-of-right; and

WHEREAS, the day care center is currently located on the ground floor of the buildings, and has maximum capacity of 60 children; and

WHEREAS, the applicant represents that the subject special permit, if granted, would allow ABC to offer any vacancies in its day care center that might otherwise remain unfilled to the public, including children of staff and clients who participate in programs at the organization's other facilities and children from the surrounding community; and

WHEREAS, the applicant also represents that there is a serious need for subsidized daycare in the area, and that a survey conducted by ABC of its own clients confirms this representation; and

WHEREAS, the applicant states that because of the specific mix of uses within the Echo Park facility, only certain zoning districts were able to accommodate the programs; and

WHEREAS, additionally, the applicant states that a building with at least 17,000 sq. ft. of floor area was necessary, again in order to accommodate the programs; and

WHEREAS, thus, ABC undertook a three year long search for a property of adequate size in a zoning district where the proposed uses would be allowed; and

WHEREAS, certain sites were ultimately rejected due to cost prohibitions, lack of appropriate size, operational concerns, poor building condition or poor transportation access; and

This is contrary to section 42-12."; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in the City Record; and then to decision on June 14, 2005; 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, and Commissioners Miele and Chin; and

WHEREAS, Community Board 11, Manhattan, recommends approval of the subject application; and

WHEREAS, this is an application to permit the proposed non-accessory operation of a school without sleeping accommodations (Use Group 3), functioning as a day care center, located primarily within an M1-2 zoning district, with a small portion in an R7-2 zoning district, which requires a special permit pursuant to Z.R. §§73-19 and 73-03; and

WHEREAS, the applicant maintains that the results of the site search shows that there is no practical possibility of obtaining a site of adequate size for the school in a district where it is permitted as of right; and

WHEREAS, the applicant has demonstrated difficulty in obtaining land for the development of a school within the neighborhood to be served and with an adequate size, within districts where the school is permitted as-of-right, sufficient to meet the programmatic needs of the school; and

WHEREAS, therefore, Board finds that the requirements of Z.R. § 73-19 (a) are met; and

WHEREAS, evidence in the record indicate that the proposed school is located within 400 feet of an R7-2 zoning district, where a school is permitted as-of-right; thus the Board finds that the requirements of Z.R. §73-19 (b) are met; and

WHEREAS, the applicant represents that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is provided through the use of sound-attenuating exterior wall and window construction; and

WHEREAS, the applicant has submitted evidence supporting the above representation; and

WHEREAS, the Board agrees that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is achieved through the use of sound attenuating exterior wall and window construction; thus, the Board finds that the requirements of Z.R. § 73-19 (c) are met; and

WHEREAS, the applicant represents that children arriving and departing from Echo Park are protected from traffic on adjacent streets by the traffic control measures currently in place for two nearby public schools; such measures include traffic signage and school crossing guards; and

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (d) are met; and

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WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 73-19; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 and §§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. §§ 73-19 and 73-03 and grants a special permit, to allow the

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, June 14, 2005.

36-04-BZ

APPLICANT - Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT - Application February 12, 1004 - under Z.R. §72-21 to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 30 Carlton Avenue, west side, 240' south of Flushing Avenue, Block 2030, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick W. Jones.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

37-04-BZ

APPLICANT - Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT - Application February 12, 1004 - under Z.R. §72-21 to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 32 Carlton Avenue, west side, 264' south of Flushing Avenue, Block 2030, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

proposed non-accessory operation of a school without sleeping accommodations (Use Group 3), functioning as a day care center, located primarily within an M1-2 zoning district, with a small portion in an R7-2 zoning district, which requires a special permit pursuant to Z.R. §§ 73-19 and 73-03; 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 "June 8, 2005" - (3) sheets; and on further condition:

THAT the premises shall comply with all applicable fire safety measures, as required and as illustrated on the BSA approved plans;

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

For Applicant: Patrick W. Jones.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

160-04-BZ/161-04-A

APPLICANT - Mitchell S. Ross, Esq., Agusta & Ross, for Daffna, LLC, owner.

SUBJECT - Application April 21, 2004 - under Z.R. §72-21 to permit, in an M1-2 zoning district, the residential conversion of an existing four-story commercial loft building into eight dwelling units, contrary to Z.R. §42-10. PREMISES AFFECTED - 73 Washington Avenue, East side of Washington Avenue 170' north of Park Avenue, Block 1875, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Mitchell Ross.

ACTION OF THE BOARD - Laid over to August 9, 2005, at 1:30 P.M., for continued hearing.

175-04-BZ thru 177-04-BZ

APPLICANT - Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT - Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, open space, perimeter wall height and rear yard, is contrary to Z.R. §23-141, §23-631 and §23-47.

PREMISES AFFECTED -

7-05 130th Street, east side, Block 3982, Lot 70, Borough of Queens.

7-09 130th Street, east side, Block 3982, Lot 67, Borough of Queens.

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7-13 130th Street, east side, Block 3982, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Eric Palatnik and Arnold Montag, R.A.

ACTION OF THE BOARD - Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

189-04-BZ

APPLICANT - D.E.C. Designs, for City of Faith Church of God, owner.

SUBJECT - Application May 5, 2004 - under Z.R.§73-19 to allow a school (UG3) in a C8-1 zoning district which is not permitted as per section 32-00 of the Zoning Resolution.

PREMISES AFFECTED - 3445 White Plains Road, 445.2' south of Magenta Street, Block 4628, Lot 47, Borough of The
PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

THE VOTE TO CLOSE HEARING -

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

Negative:.....
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ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for decision, hearing closed.

210-04-A

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - Proposed six story residential building, with 134 dwelling units, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

THE VOTE TO CLOSE HEARING -

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

Negative:.....
..0

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for decision, hearing closed.

245-04-BZ

APPLICANT - Agusta & Ross, for Mark Stern, owner.

SUBJECT - Application July 6, 2004 - under Z.R.§72-21 to

Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Peter Hirshman.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for continued hearing.

209-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - under Z.R.§72-21 to permit the proposed six story residential building, with 134 dwelling units, Use Group 2, located in an M2-1 zoning district, which is contrary to Z.R. §42-00.

permit the proposed five-story, nine unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 102/04 Franklin Avenue, west side, 182' south of Park Avenue, Block 1898, Lots 45 and 46, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Mitchell Ross

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

257-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Boerum Place, LLC, owner.

SUBJECT - Application November 19, 2004 - under Z.R.§72-21, to permit the proposed construction of an eight story mixed-use, retail-residential building, located in an R6A, R6, C2-4 and C2-3 zoning districts which does not comply with the zoning requirements for floor area ratio, lot coverage, building height and loading berth, is contrary to Z.R. §23-145, §33-121, §23-633, §35-25 and §36-22.

PREMISES AFFECTED - 252/60 Atlantic Avenue (a/k/a 83/87 Boerum Place; 239/47 Pacific Street), east side of Boerum Place, between Atlantic Avenue and Pacific Street, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick Jones and Daniel P. Lane.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for continued hearing.

372-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Robert Perretta, contract vendee.

SUBJECT - Application November 23, 2004- under Z.R. §72-21 to permit in a R1-2(NA-1) zoning district the

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construction of a single family home on a lot with less than the required lot area and lot width to vary ZR 23-32.
PREMISES AFFECTED - 8 Lawn Avenue, corner of Nugent Street, Block 2249, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

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ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for decision, hearing closed.

For Applicant: Deirdre A. Carson, Jack Friedman and Caterina Roiath.

For Opposition: Jeffrey Lefcourt, Amy Kaplan, Polly Eustis and Phyllis.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

5-05-BZ

APPLICANT - Sheldon Lobel, P.C., for S & J Real Estate, LLC, owner.

SUBJECT - Application January 14, 2005 - under Z.R. §73-53, to permit the enlargement of an existing non-conforming manufacturing building located within a district designated for residential use (R3-2). The application seeks to enlarge the subject contractor's establishment (Use Group 16) by 2,499.2 square feet.

PREMISES AFFECTED - 59-25 Fresh Meadow Lane, east side, between Horace Harding Expressway and 59th Avenue, Block 6887, Lot 24, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Mavy Halikiopoulos and Lambros Halikiopoulos.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

6-05-BZ

APPLICANT - Eric Palatnik, P.C., for Isaac and Renee Sasson, owners.

SUBJECT - Application January 14, 2005 - under Z.R. §73-622 an enlargement to a single family home to vary sections ZR 23-141 for open space and floor area, ZR 23-46 for side yards and ZR 23-47 for rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED - 3046 Bedford Avenue, between Avenues "I and J", Block 7588, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #14BK

394-04-BZ/30-05-A

APPLICANT - Deirdre A. Carson/Greenberg Traurig, LLP, for 33 Mercer Street, LLC, owner.

SUBJECT - Application December 20, 2004 - under Z.R. §72-21 to permit the proposed construction of a seven-story mixed-use building, containing residential and retail uses, whereas such uses are not permitted as right, located within an M1-5B zoning district, is contrary to Z.R. §42-10 and §42-14(D)(2)(B).

PREMISES AFFECTED - 44 Mercer Street, aka 471 Broadway, east side, 107.1/2" north of the intersection of Grand and Mercer Streets, Block 474, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

12-05-BZ

APPLICANT - Eric Palatnik, P.C., for Dina Horowitz, owner.

SUBJECT - Application January 21, 2005 - under Z.R. §73-622 for an enlargement to a single family home to vary sections ZR23-141 for floor area, ZR 23-461 for side yards and ZR 23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1662 East 28th Street, between Quentin Road and Avenue "P", Block 6790, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:40 P.M.