
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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September 1, 2005

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Affecting Calendar Numbers:

558-51-BZ	68-22 Northern Boulevard, Queens
227-00-BZ	1869 East 23 rd Street, Brooklyn
294-00-BZ	501 Broadway, Manhattan
359-02-BZ	53-55 Beach Street, Manhattan
990-77-BZ	260 Broadway, Manhattan
364-82-BZ	245-02/34 Horace Harding Expressway, Queens
234-84-BZ	1976/82 Forest Avenue, Staten Island
37-93-BZ	2040 Forest Avenue, Staten Island
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313-04-A	132-02 Hook Creek Boulevard, Queens
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Affecting Calendar Numbers:

357-03-BZ	33 Berry Street, Brooklyn
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189-04-BZ	3445 White Plains Road, Bronx
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353-04-BZ	18-15 Francis Lewis Boulevard, Queens
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234-04-BZ	255 McKibbin Street, Brooklyn
272-04-BZ	14-38/40 31 st Drive, Queens
289-04-BZ	341 Canal Street, Manhattan
299-04-BZ	111-02 Sutphin Boulevard, Queens
374-04-BZ	246 Front Street, Manhattan
375-04-BZ	1527, 1529 and 1533 60 th Street, Brooklyn
388-04-BZ	133-16 Springfield Boulevard, Queens
29-05-BZ	350 West Broadway, Manhattan
68-05-BZ	4911 17 th Avenue, Brooklyn
74-05-BZ	1089 Rockland Avenue, Staten Island
75-05-BZ	2018 Richmond Avenue, Staten Island
77-05-BZ	132 West 26 th Street, Manhattan

DOCKETS

New Case Filed Up to August 23, 2005

195-05-BZ B.BK. 2906 Quentin Road,
Quentin Road between East 29th Street and Nostrand
Avenue (approximately 33' East of East 29th Street), Block
6812, Lot 3, Borough of Brooklyn, Applic. #301968967.
Special Permit to allow the enlargement of a single family
residence located in an R3-2 zoning district.

COMMUNITY BOARD #15BK

196-05-BZ B.BK. 2315 Quentin Road,
Quentin Road between East 23rd and East 24th Streets
(approximately 52' West of East 24th Street), Block 6786,
Lot 41, Borough of Brooklyn, Applic. #301969671. Special
Permit to allow the enlargement of a single family residence
located in an R3-2 zoning district.

COMMUNITY BOARD #15BK

197-05-BZ B.M. 813-815 Broadway,
East 12th Street to the North and East 11th Street to the
South, Block 563, Lot 33 and 34, Borough of Manhattan,
Applic. #104155833. Variance to propose to demolish the
existing building and develop an 11 story mixed use
building (residential and commercial)

COMMUNITY BOARD #2M

198-05-A B.Q. 6 Cornell Lane,
Eastern side of Cornell Lane North of Northern Blvd., Block
8129, Lot 135, Borough of Brooklyn, Applic. # 402142588.

To permit the enlargement of the subject building which
will comply with all zoning and building regulations other
than the requirements that the site fronts an officially
mapped Street. (GCL 36)

199-05-BZ B.M. 299 Seventh Avenue,
South East corner of Seventh Avenue and West 27th Street,
Block 802, Lot 77, Borough of Manhattan, Applic. #
104124626. Application for a Variance under § 72-21 of the
ZR to use the upper floors of proposed mixed use building
in an M1-6 district for residential occupancy.

COMMUNITY BOARD #2M

200-05-A B.Q. 20-17 Clintonville Street,
Clintonville Street between 20th Avenue and 20th Road,

Block 4750, Lot 3, Borough of Queens, Appic. #
402119097. Application to permit the building of two
conforming dwellings in the bed of a mapped 157th Street as
per GCL 35.

201-05-A B.Q. 20-21 Clintonville Street,
Clintonville Street between 20th Avenue and 20th Road,
Block 4750, Lot 6, Borough of Queens, Appic. #
402181134. Application to permit the building of two
conforming dwellings in the bed of a mapped 157th Street as
per GCL 35.

**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

SEPTEMBER 27, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 27, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

60-82-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products North America, owner.

SUBJECT – Application July 15, 2005 - Reopening for an amendment to the resolution to extend the time to obtain an Certificate of Occupancy for an automotive service station with accessory uses which expired on July 15, 2005.

PREMISES AFFECTED – 60-11 Queens Boulevard, between 60th Street and 61st Street, Block 1338, Lots 1 & 11, Borough of Queens.

COMMUNITY BOARD #2Q

822-87-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Hudson Tower Housing Company, Inc., owner; The Fitness Company, lessee.

SUBJECT - Application May 2, 2005 - Extension of Term of a Special Permit to allow the use of a Physical Culture Establishment in the Special Battery Park City zoning district.

PREMISES AFFECTED - 375 South End Avenue, between Liberty and Albany Streets, Block 16, Lot 100, Borough of Manhattan.

COMMUNITY BOARD #1M

212-92-BZ

APPLICANT – Felipe Ventegat, for Herbert Kantrowitz, owner.

SUBJECT – Application June 13, 2005 - Extension of Term/Waiver of a Variance to continue the commercial use (UG6) located in the basement of a residential building. The premise is located in an R7-1 zoning district.

PREMISES AFFECTED – 871 East 175th Street, Mohegan Avenue and Waterloo Place, Block 2958, Lot 65, Borough of The Bronx.

COMMUNITY BOARD #6BX

37-93-BZ

APPLICANT – Cozen O'Connor Attorneys, for Vornado Forest Plaza, LLC, owner; Jack Lalanne Fitness Centers,

Inc., lessee.

SUBJECT – Application March 8, 2005 - Extension of Term of a Special Permit-Physical Culture Establishment which is not permitted as of right. The premise is located in a C8-1 zoning district.

PREMISES AFFECTED – 2040 Forest Avenue, south side 100' west of Van Name Avenue, Block 1696, Lot 8, Borough of Staten Island

COMMUNITY BOARD #1SI

126-93-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Salvatore Purna, owner.

SUBJECT – Application August 23, 2005 - Reopening for an Extension of Term for ten years for a variance of a gasoline service station, located in an R4 zoning district.

PREMISES AFFECTED – 1225 East 233rd Street, north corner lot of East 233rd Street, between Baychester Avenue and Reimer Avenue, Block 4955, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #12BX

323-98-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 801 Eleventh Avenue, LLC, owner

SUBJECT – Application July 27, 2005 - Reopening for an amendment to the resolution to extend the time to complete construction of an enlargement of an existing two-story non-residential building located in an M3-2/Special Clinton zoning district.

PREMISES AFFECTED – 801 Eleventh Avenue, west side of Eleventh Avenue, between West 55th Street and West of 56th Street, Borough of Manhattan

COMMUNITY BOARD #4M

CALENDAR

APPEALS CALENDAR

176-05-A

APPLICANT – Joseph Sherry, P.E., for The Breezy Point Cooperative, Inc., owner; George Scanlon, lessee.

SUBJECT – Application filed on August 2, 2005 -Appeal to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36 and upgrading an existing private disposal system located in the bed of the service road which serves as a street which is contrary to Department of Buildings policy .

PREMISES AFFECTED – 27 Fulton Walk, s/s 35.32 N.O. Breezy Point Blvd.

Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD # 14Q

178-05-A

APPLICANT – Joseph Sherry, P.E., for The Breezy Point Cooperative, Inc., owner; Frank Kelly , lessee.

SUBJECT – Application filed on August 2, 2005 -Appeal to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36.

PREMISES AFFECTED – 952 Bayside Walk, W/S 196.33 N/O/ Beach 209th Street

Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD # 14Q

Tuesday afternoon, September 27, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

344-04-BZ

APPLICANT – Alfonso Duarte, for NWRE 202 Corp., owner.

SUBJECT – Application October 20, 2004 - under Z.R.§72-21 - proposed use of an open lot for the sale of new and used automobiles, located in a C2-2 within an R3-2 zoning district, is contrary to Z.R.§32-25.

PREMISES AFFECTED - 202-01 Northern Boulevard, northeast corner of 202nd Street, Block 6263, Lot 29, Borough of Queens.

COMMUNITY BOARD #11Q

83-05-BZ

APPLICANT – Bryan Cave, LLP, for LuRose Realty Corp., owner.

SUBJECT – Application April 6, 2005 - under Z.R.§72-21 to allow construction of a 92-bed, Use Group 3 residential health care facility in an R6 district; contrary to ZR 24-11, 24-382, and 24-522.

PREMISES AFFECTED – 214-218 West Houston Street and 50-56 Downing Street, Block 528, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #2M

98-05-BZ

APPLICANT – Friedman & Gotbaum LLP for dac bon, LLC, contract vendee

SUBJECT – Zoning Variance application filed on April 22, 2005 under ZR 72-21 to construct a 12-story residential building with ground floor retail in an M1-5B district, contrary to ZR 42-00 and ZR 42-14(D)(2)(b) and ZR 43-43.

PREMISES AFFECTED – 46-48 Bond Street, premises located on the north side of Bond Street between Lafayette Street and The Bowery, Block 530, Lot 44 & 31, Borough of Manhattan

COMMUNITY BOARD #2M

104-05-BZ

APPLICANT - Agusta & Ross for Park Avenue Health Club, lessee. Chocolate Factory LLC , owner.

SUBJECT - Application May 6, 2005 - under Z.R.§73-36 -

SEPTEMBER 27 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing,

CALENDAR

approval sought for a proposed physical cultural establishment located on a portion of the first floor of a mixed-use building. The PCE use will contain 9,700 square feet . The site is located in a M1-2 Zoning District.

PREMISES AFFECTED - 255-275 Park Avenue, northerly side of Park Avenue between Waverly and Washington Avenue, Block 1874, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

123-05-BZ

APPLICANT - Bryan Cave LLP for Long Island University, owner.

SUBJECT – Application May 20, 2005 - under Z.R.§ 73-641 (Integration of new buildings or enlargements with existing buildings) to facilitate the construction of a tennis bubble and open colonnaded parapet on the roof of a proposed 5-story athletic center located within an R6 district.

PREMISES AFFECTED – 161 Ashland Place, east side of Ashland Place, 199' to the north of DeKalb Avenue, Block 2087, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

Pasquale Pacifico, Executive Director

NOTICE IS HEREBY GIVEN of a public hearing, Wednesday morning, September 28, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL HEARING

38-05-BZ

APPLICANT – Eric Palatnik, P.C., for John Genovese, contract vendee.

SUBJECT – Application April 8, 2005 - under Z.R.§72-21 to reduce the number of required accessory parking spaces pursuant to ZR 36-21 (38 required, 26 proposed) and to eliminate the required loading berth pursuant to ZR 36-62 for a new Use Group 6 drug store (Walgreen's) located within an R4/C1-2 district.

PREMISES AFFECTED – 80-01 Eliot Avenue, bound by 80th Street, Eliot Avenue, Caldwell Avenue and 81st Street, Block 2921, Lot 40, Borough of Queens.

COMMUNITY BOARD #5Q

48-05-BZ

APPLICANT - Wachtel & Masyr, LLP for Bethune West Associates, LLC, contract vendee.

SUBJECT - Application March 2, 2005 - under Z.R.§ 72-21 to construct a 16- and 3-story mixed use development with 60 accessory parking spaces in an M1-5 district, contrary to ZR 42-00 and ZR 13-12.

PREMISES AFFECTED - 469 West Street, bounded by Bethune Street and West 12th Street, Block 640, Lot 1, Borough of Manhattan

COMMUNITY BOARD #2M

Pasquale Pacifico, Executive Director

SEPTEMBER 28, 2005, 10:00 A.M.

**REGULAR MEETING
TUESDAY MORNING, AUGUST 23, 2005**

10:00 A.M.

MINUTES

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, May 17, 2005, were approved as printed in the Bulletin of May 26, 2005, Volume 90, No 23.

SPECIAL ORDER CALENDAR

558-51-BZ

APPLICANT – Eric Palatnik, P.C., B.P Products North America, owner.

SUBJECT – Application April 28, 2005 – Extension of Time to obtain a Certificate of Occupancy for a gasoline service station which expires on August 5, 2005. The premise is located in an C2-2/R-5 zoning district.

PREMISES – 68-22 Northern Boulevard, southwest corner of Northern Boulevard and 69th Street, Block 1186, Lot 19, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of time to obtain a new certificate of occupancy; and

WHEREAS, a public hearing was held on this application on August 9, 2005 after due notice by publication in the *City Record*, and then to decision on August 23, 2005; and

WHEREAS, on February 5, 1952, the Board granted an application to permit a gasoline service station in a C2-2/R5 zoning district on the subject site for fifteen years; the term of this grant has been extended by the Board numerous times and through the present date; and

WHEREAS, on August 5, 2003, the Board permitted a change in the signage on the subject premises from a total of 108 sq. ft. of illuminated signage to 66.25 sq. ft. of illuminated signage; and

WHEREAS, the period in which to obtain a certificate of occupancy expired on August 5, 2005; and

WHEREAS, the applicant represents that the owner of the premises, BP Products North America Inc., has been unable to obtain a certificate of occupancy because of internal delay in selecting an engineer to perform the necessary filings with the Department of Buildings; and

WHEREAS, the applicant represents that an engineer has been selected and will attend to the appropriate filings; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on August 5, 2003, so that as amended this portion of the resolution shall read: “to permit an extension of the time to obtain a certificate of occupancy for an additional two years from the date of the earlier expiration, to expire on August 5, 2007; *on condition:*

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

(DOB Application Nos. 401510842, 401510851, 401407429, 401510860, 401407517 and 401407508)

Adopted by the Board of Standards and Appeals, August 23, 2005.

227-00-BZ

APPLICANT – Sheldon Lobel, P.C., for Moshe Nachum, owner.

SUBJECT – Application April 22, 2005 – reopening for an extension of time to obtain a Certificate of Occupancy which expired April 24, 2005.

PREMISES AFFECTED – 1869 East 23rd Street between Avenue R & Avenue S, Block 6829, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Zara F. Fernandes.

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 time to obtain a new certificate of occupancy for a single-family residence; and

WHEREAS, a public hearing was held on this application on August 9, 2005, after due notice by publication in the *City Record*, and then to decision on August 23, 2005; and

WHEREAS, on April 21, 2001, under the subject calendar number, the Board granted an application to permit the enlargement of a single-family dwelling pursuant to Z.R. §73-622; and

MINUTES

WHEREAS, the period in which to obtain a certificate of occupancy expired on April 24, 2005; and

WHEREAS, the applicant represents that all construction is completed, and that only a few outstanding items remain, which should be resolved in three to four months; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on April 21, 2004, so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a certificate of occupancy for an additional two years from the date of the earlier expiration, to expire on April 24, 2007; *on condition:*

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)/configuration(s) not related to the relief granted." (DOB Application No. 301028206)

Adopted by the Board of Standards and Appeals, August 23, 2005.

294-00-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Broadway Partners, LLC, owners.

SUBJECT – Application June 7, 2005 – Extension of time to complete substantial construction on a mixed use, commercial/residential building. The premise is located in an M1-5B zoning district.

PREMISES AFFECTED – 501 Broadway and 72 Mercer Street, west side of Broadway and east side of Mercer Street, 120' north of Broome Street, Block 484, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of time to complete construction of previously approved by the Board; and

WHEREAS, a public hearing was held on this application on August 16, 2003 after due notice by publication

in the *City Record*, and then to decision on August 23, 2005; and

WHEREAS, on July 17, 2001, under the subject calendar number, the Board granted an application to permit the construction of an eight-story mixed-use structure on a vacant site in an M1-5B Zoning District, pursuant to Z.R. § 72-21; and

WHEREAS, this grant was the subject of a minor modification, made by the Board in December of 2002; and

WHEREAS, the period in which to complete substantial construction pursuant to Z.R. § 72-23 expired on July 17, 2005; and

WHEREAS, the applicant represents the prior owner had difficulty in obtaining financing and could not commence construction for this reason; and

WHEREAS, the applicant further represents that the property has been conveyed to a new owner, who has filed plans and received a building permit for the approved construction; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 17, 2001, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction for an additional three years from the date of the earlier expiration, to expire on July 17, 2008; *on condition:*

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)/configuration(s) not related to the relief granted." (DOB Application No. 102918498)

Adopted by the Board of Standards and Appeals, August 23, 2005.

359-02-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Wegweiser & Enrich, LLC, owner.

SUBJECT – Application October 18, 2004 – Amendment to a previous variance ZR §72-21 that allowed the operation of a school on the first floor and cellar in a six story building; the amendment is to relocate the operation of the school from the cellar floor to the second floor and to maintain the use on the first floor. The premises is located an M1-5

MINUTES

(TMU) zoning district.

PREMISES AFFECTED – 53-55 Beach Street, North side of Beach Street, west of Collister Street, Block 214, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Fredrick Becker.

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 amendment to the resolution; and

WHEREAS, a public hearing was held on this application on August 16, after due notice by publication in *The City Record*, and then to and decision on August 23, 2005; and

WHEREAS, Community Board No. 1, Manhattan, recommends approval of the subject application; and

WHEREAS, on May 6, 2003, under the subject calendar number, the Board granted a variance to permit, in an M1-5 (TMU) zoning district, the establishment of a pre-school (Use Group 3) on the ground floor and cellar of the subject building, which did not conform to the district use regulations; and

WHEREAS, the applicant seeks an amendment of the prior Board grant to permit the relocation of the school use from the cellar to the second floor, and return the use of the cellar as storage space for a warehouse that is housed in other portions of the building; and

WHEREAS, the site is located on Beach Street between Collister Street and Greenwich Street in Tribeca; and

WHEREAS, the applicant states that it expects an increase in enrollment at the school from 60 to 90 students; and

WHEREAS, the applicant represents that there will not be an increase in prior approved floor area; 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, in an M1-5 (TMU) zoning district, the establishment of a pre-school (Use Group 3) on the ground floor and second floor of the subject building, contrary to Z.R. §42-31; *on condition* that all work and site conditions shall substantially conform to drawings filed with this application marked ‘Received October 18, 2004’-(4) sheets, ‘July 13, 2005’-(1) sheet and ‘August 17, 2005’-(2) sheets; and *on further condition*;

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)/configuration(s) not related to the relief granted.” (DOB Application No. 103314922)

Adopted by the Board of Standards and Appeals, August 23, 2005.

990-77-BZ

APPLICANT – Greenberg Traurig, LLP, for 260 Broadway Condo, Assoc., owner.

SUBJECT – Application May 6, 2005 – reopening for an amendment to an existing variance within the Special Tribeca Mixed Use District that allowed in an M1-5 district, floors 3 through 11 of the Building to be converted to residential use. The amendment seeks to allow a portion of the first floor to be converted to residential use and to legalize the conversion of the entire second floor to residential use.

PREMISES AFFECTED – 260 Broadway, property bounded West Broadway, Beach Street and St. John’s Lane, Block 212, Lots 1001-1058 (7501), Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Deirdre A. Carson and Meloney McMonoy.

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 September 20, 2005, at 10 A.M., for decision, hearing closed.

364-82-BZ

APPLICANT – Cozen O’Connor Attorneys, for Little Neck Commons, LLC, owners; Jack Lalanne Fitness Centers, Inc., lessee.

SUBJECT – Application January 14, 2005 – Extension of Term/Waiver for a physical culture establishment located in a C1-2(R3-2) zoning district.

PREMISES AFFECTED – 245-02/34 Horace Harding Expressway, Block 8276, Lot 100, Douglaston, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Barbara Hair.

MINUTES

ACTION OF THE BOARD – Laid over to September 13, 2005, at 10 A.M., for continued hearing.

234-84-BZ

APPLICANT – Vito J. Fossella, P.E., for Forest Realty Management, LLC, owner.

SUBJECT - Application May 19, 2005 - Extension of Term for commercial UG6 establishment partially located in a R3-2 residential zoning district.

PREMISES AFFECTED - 1976/82 Forest Avenue, Block 1696, Lot 26, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Sam El. Meniawy.

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 September 13, 2005, at 10 A.M., for decision, hearing closed.

37-93-BZ

APPLICANT – Cozen O’Connor Attorneys, for Vornado Forest Plaza, LLC, owner; Jack Lalanne Fitness Centers, Inc., lessee.

SUBJECT – Application March 8, 2005 – Extension of Term of a Special Permit-Physical Culture Establishment which is not permitted as of right. The premises is located in a C8-1 zoning district.

PREMISES AFFECTED – 2040 Forest Avenue, south side 100’ west of Van Name Avenue, Block 1696, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Barbara Hair.

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

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 –

For Applicant: Fredrick Becker.

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 September 13, 2005, at 10 A.M., for decision, hearing closed.

313-04-A

APPLICANT – Sheldon Lobel, P.C., for Angella Blackwood, owner.

SUBJECT – Application September 16, 2004 – Proposed enlargement of an existing two story, single family residence, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 132-02 Hook Creek Boulevard, southwest corner of 132nd Avenue, Block 12981, Lot 117, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Zara F. Fernandes.

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 Queens Borough Commissioner, dated September 15, 2004 acting on Department of Buildings Application No.401874126, which reads:

“Proposed construction of 2nd floor addition within a bed of a mapped street (Hook Creek Boulevard) is contrary to Section 35 of the General City Law;” and

WHEREAS, a public hearing was held on this application on August 9, 2005 after due notice by publication in the *City Record*, and then to decision on August 23, 2005, and

WHEREAS, by letter dated October 4, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated December 23, 2004 the Department of Transportation has reviewed the above project and has no objections; and

WHEREAS, by letter dated December 27, 2004, the Department of Environmental Protection has reviewed the above project and has requested that a minimum 30 foot Sewer Corridor in the bed of Hook Creek Blvd between 132nd Avenue and 132nd Road, and 30foot Sewer Corridor in the bed of 132nd Avenue at the intersection with Hook Creek Boulevard be provided for the purpose of repair, maintenance and /or

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reconstruction of existing sewers and water mains DEP also requests that no permanent structures be built within this "Sewer Corridor"; and

HEREAS, by letter dated, May 17, 2005, the applicant has agreed to the request by the Department of Environmental Protection in its December 27, 2004 letter and has provided a site Plan #A10A indicating the placement of both "Sewer Corridors";

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, September 15, 2004 acting on Department of Buildings Application No.401874126, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received August 12, 2005" – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT Sewer Corridors be provided in the bed of Hook Creek Boulevard between 132nd Avenue and 132nd Road, in the bed of 132nd Avenue at the intersection with Hook Creek Boulevard, and that no permanent structures be built in these corridors as requested by the Department of Environmental Protection and in compliance with approved Plan #A10A; and

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, August 23, 2005.

53-04-A thru 62-04-A

APPLICANT – New York City Department of Buildings
OWNER OF RECORD: Thomas Huang
SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.
PREMISES AFFECTED –

- 140-26A 34th Avenue, Block 4994, Lot 24, Borough of Queens
- 140-28 34th Avenue, Block 4994, Lot 224, Borough of Queens
- 140-28A 34th Avenue, Block 4994, Lot 224,

- Borough of Queens
- 140-30 34th Avenue, Block 4994, Lot 125, Borough of Queens
- 140-30A 34th Avenue, Block 4994, Lot 225, Borough of Queens
- 140-32 34th Avenue, Block 4994, Lot 126, Borough of Queens
- 140-32A 34th Avenue, Block 4994, Lot 27, Borough of Queens
- 140-34 34th Avenue, Block 4994, Lot 127, Borough of Queens
- 140-34A 34th Avenue, Block 4994, Lot 227, Borough of Queens
- 140-36 34th Avenue, Block 4994, Lot 327, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Lisa Orrantia, DOB.

For Opposition: Eric Palatnik and Thomas E. Berinato.

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 December 13, 2005, at 10 A.M., for decision, hearing closed.

54-05-A

APPLICANT -NYC Department of Buildings.
OWNER OF PREMISES: Yeshiva Imrei Chaim Viznitz.
SUBJECT - Application March 4, 2005 - Application to revoke Certificate of Occupancy No. 300131122, on the basis that the Certificate of Occupancy allows conditions at the subject premises that are contrary to the Zoning Resolution and the Administrative Code.
PREMISES AFFECTED -1824 53rd Street, southeast corner of 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES – None.

ACTION OF THE BOARD – Removed from Calendar.

Pasquale Pacifico, Executive Director.

Adjourned: 10:20 A.M.

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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,
August 23, 2005.

378-03-BZ
APPLICANT – Harold Weinberg, P.E., for The New Way
Circus Center by Regina Berenshtein, owner.
SUBJECT – Application December 4, 2003 - under Z.R.
§72-21 application seeks to waiver sections: 23-141 (Lot
Coverage), 23-462 (Side Yards), 23-45 (Front Yard), and
23-631 (Perimeter Wall Height, Sky Exposure Plane and
Setback), to allow in a R5 zoning district the construction of
a two story building to be used as a non-profit institution
without sleeping accommodations for teaching of circus
skills.
PREMISES AFFECTED – 2920 Coney Island Avenue, west
side 53.96’ north of Shore Parkway, Block 7244, Lot 98,
Borough of Brooklyn.

COMMUNITY BOARD #15BK
APPEARANCES –
For Applicant: Hiram A. Rothkrug.

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, issued July 21, 2004 and updated in corrected
form August 17, 2005, acting on Department of Buildings
Application No. 301642097, reads:
“The proposed erection of a community facility structure in use
Group 4 in an R5 zoning district in the Ocean Parkway Special
Zoning District:

1. Creates non-compliances with respect to lot coverage and is contrary to Section 23-141 of the Zoning Resolution.
2. Creates non-compliances with respect to side yards and is contrary to Section 23-462 of the Zoning Resolution.
3. Creates non-compliances with respect to front yard and is contrary to Section 23-45 of the Zoning Resolution.
4. Creates non-compliances with respect to the perimeter wall height, sky exposure plane and setback and is contrary to Section 23-631 of the Zoning Resolution.
5. Creates non-compliance with respect to Floor Area Ratio and is contrary to Section 23-141.”;

REGULAR MEETING
TUESDAY AFTERNOON, AUGUST 23, 2005
1:30 P.M.

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

357-03-BZ
APPLICANT - Agusta & Ross, for ECROB, LLC., owner.
SUBJECT - Application November 19, 2003 - under Z.R.
§72-21 to permit the proposed four-story and penthouse
multiple dwelling in an M1-2 district contrary to Z.R. §42-
10.
PREMISES AFFECTED - 33 Berry Street, a/k/a 144 North
12th Street, southwest corner of North 12th Street and Berry
Street, Block 2290, Lot 5, Borough of Brooklyn.
COMMUNITY BOARD #1BK
APPEARANCES - None.

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and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in *The City Record*, with continued hearings on July 12, 2005, August 9, 2005, and then to decision on August 23, 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, Commissioner Miele and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R5 zoning district (within the Ocean Parkway Special District), the proposed construction of a two-story building to be used as a circus school for children, which is categorized as a UG4 non-profit institution without sleeping accommodations, contrary to Z.R. §§ 23-141, 23-462, 23-45, and 23-631; and

WHEREAS, this application is brought on behalf of The New Way Circus Center., a not-for-profit entity, which will operate a circus school for children at the subject site (hereinafter, the "School"); and

WHEREAS, the site is located on the west side of Coney Island Avenue, approximately 54 ft. north of Shore Parkway, between Shore Parkway and Montauk Court, and has a total lot area of 2,160 sq. ft.; and

WHEREAS, the subject site is currently improved upon with a one-story commercial building, which the applicant represents was occupied by a non-conforming use and is non-complying, and which is proposed to be demolished; and

WHEREAS, the applicant states that the School introduces and inculcates youth in the operation of circuses, and will provide education and training related to a full panoply of circus-related activities, including trapeze, juggling, unicycle riding, and tight rope walking; and

WHEREAS, construction of the building as currently proposed will result in the following non-compliances: a floor area ratio ("FAR") of 2.0 (1.65 is the maximum FAR allowed); no front yard (a front yard of 18'-0" is required); no side yards (side yards of 5'-0" and 8'-0" are required); no setback (an 18'-0" setback is required); lot coverage of 100% (55% is the maximum); perimeter wall height of 40'-0" (perimeter wall height of 30'-0" is the maximum permitted); total height of 49'-0" (height of 35'-0" is the maximum permitted); and no sky exposure plane; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the existing building has insufficient space to accommodate the anticipated programmatic needs of the School, thus necessitating its demolition and replacement with a structure that provides sufficient floor-to-ceiling heights and floor plates for the School's educational mission; and (2) the site is small and shallow, with a depth of 54'-0"; and

WHEREAS, the applicant further states that the requested waivers are necessary to accommodate a building large enough to house an efficient interior layout, suitable to

address the School's programmatic needs of training its students in physically-intensive, high-space demand circus-related activities; and

WHEREAS, the Board observes the floor area waiver is necessary in order to accommodate a second class room, which, according to the applicant, is necessary for proper training space; and

WHEREAS, the Board observes that the circus-related activities (trapeze, tight rope walking, and unicycle riding), require accommodation through the provision of significant floor to ceiling heights and large floor plates, which can only be constructed on the site provided that waivers of FAR, height, perimeter wall height, sky exposure plane, setback, yards and lot coverage are obtained; and

WHEREAS, in particular, trapeze training requires high floor to ceiling heights to accommodate not only the trapeze swing, but also the safety net, which must be placed three to five feet above the floor; this necessitates the height waiver; and

WHEREAS, in addition, the unicycle training requires large floor plates, which necessitates the yard, lot coverage and setback waivers; and

WHEREAS, a building that fully complies with these provisions would not allow for utilization by the School, due to their special programmatic needs; and

WHEREAS, thus, the Board agrees that, based upon the submitted evidence, the waivers are 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, creates 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 proposed construction 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 represents that the proposed building is designed to only address the programmatic needs of the School; and

WHEREAS, the applicant notes that all existing buildings on the subject street have no front yard or side yards, like the proposal; and

WHEREAS, the applicant also notes that any visual impact arising from the proposed building would be mitigated by the lack of residential uses on the other side of Coney Island Avenue; and

WHEREAS, finally, the applicant states that although there is a three-story residential building to the rear of the site with a lesser total height than the proposed building, this residential building is also adjacent to a six-story building at the rear; and

[WHEREAS, the proposed hours of operation are from 4

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PM to 10 PM, Monday through Friday, and 10 AM to 10 PM on Saturday and Sunday; the Board finds that these hours are reasonable given the proposed use, and will not impact the character of the neighborhood or impact adjacent uses; and

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

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

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

WHEREAS, thus, 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; 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-101K dated 12/04/03; 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

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, within an R5 zoning district (within the Ocean Parkway Special District), the proposed construction of a two-story building to be used as a circus school for children, which is categorized as a UG4 non-profit institution without sleeping accommodations, contrary to Z.R. §§ 23-141, 23-462, 23-45, and 23-631; *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 July 21, 2005"-(9) sheets; and *on further condition*:

THAT the building shall only be used for a "Not-for-profit Circus School, without sleeping accommodations" and shall only be operated by The New Way Circus Center; any change in actual use, Use Group, or ownership or operator shall require BSA approval;

THAT the above condition(s) shall be listed on the certificate of occupancy;

THAT the bulk parameters of the proposed building shall be as reflected on the BSA-approved plans;

THAT compliance with existing, occupancy, and Local Law 58/87 requirements is subject to the review and approval of 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, August 23, 2005.

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 Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Peter Hirshman.

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 Bronx Borough Commissioner, dated June 30, 2005, acting on Department of Buildings Application No. 200774475, reads:

"Proposed school and day care, zoning use group 3A, in a C8-1 zoning district is contrary to section 32-00 of the Zoning Resolution. Zoning use group 3A is permitted by Special Permit of the Board of Standards and Appeals per Section 32-30 of the Zoning Resolution and in accordance with standards

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set forth in Article VII, Chapter 3 of the Zoning Resolution;” and

WHEREAS, a public hearing was held on this application on June 14, 2005 after due notice by publication in the City Record, with continued hearings on July 19, 2005; and then to decision on August 23, 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, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 12, Bronx, recommends approval of the subject application; and

WHEREAS, this is an application to permit a school without sleeping accommodations (Use Group 3), within a C8-1 zoning district, which requires a special permit pursuant to Z.R. §§ 73-19 and 73-03; and

WHEREAS, the subject premises is located on White Plains Road south of Magenta Street, and is currently improved upon with a two-story building; and

WHEREAS, the premises is owned by the City of Faith Church of God, which is located next to the premises, and is used as a school for the church (the “School”); and

WHEREAS, the School occupies 9,852 sq. ft.; and

WHEREAS, the applicant represents that the subject special permit, if granted, would allow the School to accommodate the current student body and others who want to attend the school, for a total of 70 students; and

WHEREAS, the applicant represents that a portion of the zoning lot adjacent to the building will be used as an open playground for the students; and

WHEREAS, the applicant represents that a search was conducted for suitable premises in the R6 zoning district located near the site; and

WHEREAS, the applicant has submitted a letter from a real estate broker that substantiates that a search was conducted in the surrounding area; and

WHEREAS, the applicant represents that certain sites were ultimately rejected due to cost prohibitions; the applicant further states that the current building is already owned by the church, thereby making it a monetarily feasible option; 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 indicates that the rear of the proposed School is located adjacent to an R6 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 will be provided through

the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along lot lines of the zoning lot; and

WHEREAS, the applicant represents that to the east of the premises is an auto repair shop which generates little noise, and there is sufficient open area between the School and the auto repair shop; and

WHEREAS, the applicant further represents that the School building is constructed of masonry wall with furred out gypsum interior walls, and the windows are constructed of double pane glass assemblies; both the walls and windows provide sufficient sound insulation to ensure adequate separation from the noises of traffic and surrounding uses; 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 or by the provision of adequate open areas along lot lines of the zoning lot; thus, the Board finds that the requirements of Z.R. §73-19 (c) are met; and

WHEREAS, the applicant represents that students will arrive by either car or bus, and that White Plains Road is wide enough to allow school buses to load and unload passengers while not impeding the flow of traffic; and

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (d) are met; 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, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-19 and 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 for the operation of a school without sleeping accommodations (Use Group 3) in a two-story plus cellar building, within a C8-1 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 “August 9, 2005”-(4) sheets; and *on further condition*:

THAT all interior partitions and exits shall be as approved by DOB;

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

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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, August 23, 2005.

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.

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 November 8, 2004, acting on Department of Buildings Application No. 301763143, reads, in pertinent part:

“Objection #1 – The proposed floor area ratio exceeds that permitted by ZR 23-145 & 33-121.

Objection #2 – The proposed lot coverage exceeds that permitted by ZR 23-145.

Objection #5 – The proposed loading berth does not comply with that required by ZR 36-62.”; and

WHEREAS, a public hearing was held on this

application on April 19, 2005 after due notice by publication in the *City Record*, with continued hearings on May 24, 2005, June 14, 2005, July 19, 2005, and then to decision on August 23, 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 2, Brooklyn, recommends approval of this application; and

WHEREAS, the Atlantic Avenue Betterment Association also supports this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within a split C2-4 (within an R6A zoning district) and C2-3 in the Special Downtown Brooklyn District and the Atlantic Avenue Subdistrict (within an R6 zoning district), the proposed development of a seven-story mixed-use building, which does not comply with the zoning regulations for lot coverage, floor area, and loading berths, contrary to Z.R. §§ 23-145, 33-121 and 36-62; and

WHEREAS, the premises is approximately 85'-0" by 160'-0", and is located on the east side of Boerum Place between Atlantic Avenue and Pacific Street; the total lot area is approximately 16,225 sq. ft.; and

WHEREAS, the site is currently improved upon with a pre-existing, non-conforming automotive service station; and

WHEREAS, the applicant proposes to construct a seven-story building, with approximately 74,672 sq. ft. of residential floor area, 8,534 sq. ft. of retail floor area, 81,079 sq. ft. total zoning floor area, 4.997 floor area ratio ("FAR"), 59 dwelling units, a street wall height of 50'-0" and a total height of 70'-0" on Atlantic Avenue, a street wall height of 60'-0" and a total height of 70'-0" on the northern portion of Boerum Place, a street wall height of 40'-6" and a total height of 50'-0" on the southern portion of Boerum Place and along Pacific Street, and 24 parking spaces; and

WHEREAS, the original proposal contemplated an eight-story building with 83,030 sq. ft. of residential floor area, 14,160 sq. ft. of retail floor area, 97,190 sq. ft. total zoning floor area, 5.99 FAR, 64 dwelling units, a street wall height of 50'-0" and a total height of 80'-0" on Atlantic Avenue, a street wall height of 60'-0" and a total height of 80'-0" on the northern portion of Boerum Place, a street wall height of 40'-6" and a total height of 80'-0" on the southern portion of Boerum Place and Pacific Street, 36 parking spaces, and other non-compliances as discussed below; and

WHEREAS, the initial proposal also included waivers for building height and off-street parking; such non-compliances were subsequently removed by the applicant at the request of the Board; and

WHEREAS, the proposed development generates the following waiver requests: FAR of 4.997 (maximum 2.69 FAR permitted); lot coverage ratio of 0.89 (maximum of 0.80 permitted); and no loading berth (one loading berth required); and

WHEREAS, the applicant states that the following are

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unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: the presence of an underground storage tank and environmental contamination, due to the history of use as a gas station; and

WHEREAS, the applicant represents that there is an underground storage tank on the premises that was installed in 1987, and the tank is not currently in compliance with regulations of the Environmental Protection Agency (EPA); and

WHEREAS, the applicant has submitted a letter from the prior lessee of the property, ExxonMobil, which states that the underground storage tanks and gasoline product lines need to be replaced as per EPA regulations, and the cost of such work is \$300,000; and

WHEREAS, the applicant has submitted a letter from an environmental remediation firm, dated May 27, 2005, which states that remediation of the site is expected to cost at least \$1,400,000, and that approximately 20% of the remediation work has been completed already; and

WHEREAS, based upon the above, the Board concludes that the increased FAR is justified by the premium costs related to environmental contamination remediation; and

WHEREAS, the Board also observes that the lot coverage waiver is justified due to the short length of the frontage on Boerum Place (160'-0" instead of the typical 200'-0"); and

WHEREAS, specifically, the Board notes that the creation of viable, efficient floor plates with double-loaded corridors for a contextual building form that would comply with the R6A envelope, as well as the Quality Housing envelope within the R6 district, necessitates a higher lot coverage ratio than would be required on a lot with a typical full block frontage of 200 ft.; and

WHEREAS, finally, the Board notes that the loading berth requirement arises from the amount of square footage of the proposed first floor retail space; while this objection would not arise if the proposal included residential over a larger portion of the ground floor, such use is not as viable as retail on the Atlantic Avenue side of the site, as well as along Boerum Place, and its inclusion there would decrease the overall return and likely necessitate the increase of other waivers; and

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

WHEREAS, the applicant represents that it has unsuccessfully attempted to find other vendors to operate the gas station, but other operators refused as the volume of gasoline sales was insufficient to overcome the cost of the work to extensively retrofit the underground storage tanks system; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed an as-of-right complying residential/retail scenario and a lesser non-complying residential/retail scenario, and concluded that neither would result in a reasonable rate of

return; and

WHEREAS, the applicant concluded in its feasibility study that the additional premium costs for remediation would not be offset by an as-of-right mixed use commercial and residential development at 2.67 FAR; and

WHEREAS, at the request of the Board, the applicant submitted a further feasibility study of a 4.0 FAR building with residential and retail, and concluded that it would not result in a reasonable rate of return; and

WHEREAS, the Board questioned certain of the applicant's comparables related to the site valuation and condominium sales for this location, and asked the applicant to update and provide additional information about them; and

WHEREAS, the applicant responded by updating the comparables and site valuation, and by providing both a detailed description of the amenities of the comparables used and an explanation as to why the proposed building will sell for less than the comparables; and

WHEREAS, as to the residential retail and condominium schemes, the Board questioned the applicant's use of a sell-out period of three years rather than a shorter period; and

WHEREAS, in response, the applicant submitted additional information reinforcing why a sell-out period of three years is appropriate, including examples of other new residential condominiums within the Downtown Brooklyn and Boerum Hill neighborhoods; and

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

WHEREAS, the applicant states that the proposed building's current bulk and height will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the applicant represents that the site is located on the heavily trafficked intersection of Atlantic Avenue and Boerum Place; and

WHEREAS, the Board observes that Atlantic Avenue is a major thoroughfare in Downtown Brooklyn and is also a wide street, and the portion of the site located on Atlantic Avenue is a high density residential district (R6A) with a commercial overlay; and

WHEREAS, the Board also notes that Boerum Place is a narrow street with lower buildings and is in an R6 zoning district with a commercial overlay; and

WHEREAS, the Board further notes that Pacific Street is also a narrow street and is predominantly residential, with four to five story buildings; and

WHEREAS, the applicant further represents that north of Atlantic Avenue the area is characterized by buildings of ten stories or more, and south of Atlantic Avenue, the neighborhood is characterized by buildings between two and eight stories; and

WHEREAS, the Board observes that the initial proposal was significantly over bulk at a height of eight stories, and was particularly out of character with the neighborhood along the

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portions of Boerum Place and Pacific Street; and

WHEREAS, as noted above, the Board found that the initial financial information presented by the applicant did not justify the FAR first requested, the additional commercial floor area that triggered the loading berth waiver, or the increased parking (given that the site is served by mass transit); and

WHEREAS, accordingly, in response to the Board's concerns, the applicant reduced the overall bulk of the building and further complied with the Quality Housing envelope and setback regulations, in order to create a more contextual development; and

WHEREAS, specifically, on Atlantic Avenue and the northern portion of Boerum Place, the applicant initially proposed a building with the following bulk parameters: a 50'-0" street wall height, then a setback of 10'-0" to a height of 60'-0", and a further setback of 10'-0" to a total height of 80'-0"; and

WHEREAS, as-of-right, the zoning allows a street wall height of 50'-0", then a setback of 10'-0" to a height of 60'-0", and then a further setback of 10'-0" to a height of 70'-0"; and

WHEREAS, the applicant now proposes a 50'-0" street wall height, then a setback of 10'-0" to a height of 70'-0"; and

WHEREAS, on Boerum Place, the applicant proposed a 60'-0" street wall height, then a setback of 15'-0" to a height of 80'-0"; and

WHEREAS, as-of-right, the zoning allows a street wall height of 60'-0", then a setback of 15'-0" to a height of 70'-0"; and

WHEREAS, the applicant now proposes a 60'-0" street wall height on Boerum Place, then a setback of 10'-0" to a height of 70'-0"; and

WHEREAS, on Boerum Place/Pacific Street, the applicant proposed a street wall height of 40'-6", then a setback of 15'-0" to a height of 80'-0"; and

WHEREAS, as-of-right, the zoning allows a street wall height of 45'-0", then a setback of 15'-0" to a height of 50'-0"; and

WHEREAS, the applicant now proposes a street wall height of 40'-6", then a setback of 15'-0" to a height of 50'-0"; and

WHEREAS, the Board observes that the due to these changes, the proposed building complies with all street wall and setback requirements; and

WHEREAS, additionally, the Board notes that although the current proposal still requires a loading berth waiver, the applicant significantly reduced the amount of retail floor area along the southern portion of Boerum Place and Pacific Street from 11,203 sq. ft. to 8,534 sq. ft.; and

WHEREAS, the Board further notes that the applicant reduced the number of parking spaces from 36 to 24, thereby removing the parking objection; and

WHEREAS, the Board finds that these modifications to the proposal lead to a development that is more compatible with the context of the surrounding neighborhood; and

WHEREAS, the applicant also represents that the proposal complies with all applicable requirements of the

Special Downtown Brooklyn District and the Atlantic Avenue Subdistrict; 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

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

WHEREAS, although the applicant modified the proposal from the original version to the current scenario, the Board requested a further investigation of the feasibility of a 4.0 FAR. development scenario with a shorter sell-out period; and

WHEREAS, the applicant reviewed such a scenario and concluded that three years is an appropriate sell-out period based on recent sales in the areas, and that a 4.0 FAR building is not viable; and

WHEREAS, accordingly, the Board finds that the current 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 a 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. 05BSA009K, dated October 26, 2004; and

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

WHEREAS, the 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 October 26, 2004; (2) a Phase I Environmental Site Assessment Report, dated June 24, 2003; and (3) the Limited Phase II Subsurface Investigation & Partial Remediation Report dated February 11, 2004; and

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

WHEREAS, a Proof of Submission for Recording of an Executed Restrictive Declaration was submitted to BSA and DEP on August 22, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be

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any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration; 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 conditions as stipulated below, 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, within a split C2-4 (within an R6A zoning district) and C2-3 in the Special Downtown Brooklyn District and the Atlantic Avenue Subdistrict (within an R6 zoning district), the proposed development of a seven-story mixed-use building, which does not comply with the zoning regulations for lot coverage, floor area, and loading berths, contrary to Z.R. §§23-145, 33-121 and 36-62; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 1, 2005"–(14) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as follows: (1) FAR of 4.997; and (2) lot coverage ratio of 0.89;

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, August 23, 2005.

353-04-BZ

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

SUBJECT – Application November 4, 2004 – under Z.R. §11-411 and §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

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

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 Queens Borough Commissioner, dated October 5, 2004, acting on Department of Buildings Application No. 401730926, reads:

"Proposed extension of term and change in interior layout of professional office building (UG6) in an R3-2 zoning district is contrary to Section 22-10 ZR and the resolution under Cal. No. 612-59-BZ and must be referred back to the Board"; and

WHEREAS, this is an application for a reinstatement of a prior Board approval, granted under BSA Cal. No. 612-59-BZ, pursuant to Z.R. § 11-411, and a legalization of minor amendments to the previously approved plans, as well as approval of a proposed minor amendment to the existing conditions, pursuant to Z.R. § 11-412; and

WHEREAS, a public hearing was held on this application on July 26, 2005, after due notice by publication in *The City Record*, and then to August 23, 2005 for decision; and

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

WHEREAS, Community Board No. 7, Queens, recommends approval of this application; and

WHEREAS, the premises is located on the corner of Francis Lewis Boulevard, 160th Street and 18th Avenue, within an R3-2 zoning district, and has a total lot area of approximately 1,489 sq. ft.; and

WHEREAS, the premises is improved upon with a 2,978 sq. ft., one-story plus basement building used for UG 6 professional office use; and

WHEREAS, on February 24, 1960, under Calendar No. 612-59-BZ, the Board granted a variance for a term of twenty years, to permit, in a residence use district, the erection and maintenance of the afore-mentioned professional office building; and

WHEREAS, an 10 year extension of term for this variance was granted in 1980; and

WHEREAS, the applicant states that, due to an oversight, no extension of term application was filed upon the expiration of the last term; and

WHEREAS, the applicant states that from the time of the original variance, the site has been continuously occupied as a professional office; and

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WHEREAS, the following non-compliances with the Board's prior grant are proposed to be legalized: (1) the offices have been re-partitioned to facilitate modern medical usage, such that the doctor's offices are smaller, a waiting room and exam rooms are provided, and a stairwell was relocated; and (2) the elevation differs slightly from the approved plans, in that windows were relocated, facing materials are different, and the entrance was relocated; and

WHEREAS, additionally, the applicant proposes the inclusion of a spiral staircase connecting the basement with the first floor; and

WHEREAS, the Board has reviewed the existing non-compliances and the proposed change and finds that they are minor and thus may be approved; and

WHEREAS, pursuant to Z.R. §11-411, the Board may extend the term of an expired variance; and

WHEREAS, additionally, pursuant to Z.R. §11-412, the Board may, in appropriate cases, allow minor alterations on sites subject to a pre-1961 variance; and

WHEREAS, based upon its review of the record, the Board has determined that the evidence supports the requested extension of term and modifications, pursuant to Z.R. §§ 11-411 and 11-412; 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. §§ 11-411 and 11-412, on a site previously before the Board, to permit a reinstatement of a prior Board approval, granted under BSA Cal. No. 612-59-BZ, and a legalization of minor amendments to the previously approved plans, as well as approval of a proposed minor amendment to the existing conditions; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 8, 2005" –(2) sheets; and *on further condition*;

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

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

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

THAT the terms of this grant shall be for ten (10) years from August 23, 2005, to expire on August 23, 2015;

THAT these conditions appear on the Certificate of Occupancy;

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy if listed previously;

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

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

THAT the Department of Buildings must ensure

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

Adopted by the Board of Standards and Appeals, August 23, 2005.

43-05-BZ

APPLICANT – Harold Weinberg, P.E., for Yossi Cohen, owner.

SUBJECT - Application February 25, 2005 - under Z.R. §73-622 to permit an enlargement to the rear of a single family home to vary sections Z.R. §23-141 floor area and open space, Z.R. §23-461 side yards and Z.R. §23-47 for rear yard. The premise is located in an R3-2 zoning district. PREMISES AFFECTED – 1826 East 28th Street, west side, 200'-0" south of Avenue "R", Block 6833, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

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 24, 2005, acting on Department of Buildings Application No. 301896919, reads:

"The proposed enlargement of the existing one family residence in an R3-2 zoning district:

1. Increases the degree of non-compliance with respect to floor area ratio and the maximum permitted floor area by exceeding the allowable floor area ration and is contrary to Sections 23-141 and 54-31 of the Zoning Resolution;
2. Increases the degree of non-compliance with respect to open space to decrease below the allowable open space ratio and is contrary to Section 23-141 and 54-31 ZR;
3. Reduces the rear yard below 30' and is contrary to Section 23-47 ZR;
4. Increases the degree of non-compliance with respect to side yard and is contrary to Sections 23-461 and 54-31;
5. Increases the degree of non-compliance with respect to lot coverage and is contrary to Sections 23-141 and 54-31."; and

WHEREAS, a public hearing was held on this application on May 24, 2005 after due notice by publication in *The City Record*, with continued hearings on July 12, 2005, August 9, 2005, and then to decision on August 23, 2005; and

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

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

WHEREAS, certain members of the community appeared in opposition to the application, claiming that the intrusion into the rear yard would negatively impact the character of the neighborhood; as noted below, the Board concluded otherwise; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space and side and rear yards, contrary to Z.R. §§ 23-141, 23-461, 23-47 and 54-31; and

WHEREAS, the subject lot is located on the west side of East 28th Street, 200' south of Avenue R, between Avenues R and S; and

WHEREAS, the subject lot has a total lot area of 3,000 sq. ft.; and

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

WHEREAS, the applicant seeks an increase in the floor area from 1686.9 sq. ft. (0.56 Floor Area Ratio or "FAR") to 3,000 sq. ft. (1.0 FAR); the maximum floor area permitted (with an attic bonus) is 1,800 sq. ft. (0.60 FAR); and

WHEREAS, at the request of the Board, the FAR was reduced to 1.0 from 1.07; and

WHEREAS, the proposed enlargement will increase the lot coverage from 27.3% to 48.4%; the maximum lot coverage permitted is 35%; and

WHEREAS, the proposed enlargement will decrease the open space from 2,183.3 sq. ft. to 1,547.9 sq. ft.; the minimum required is 1,950 sq. ft.; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 2'-10", which does not comply with the 5' minimum side yard requirement; and

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

WHEREAS, the proposed enlargement will reduce the rear yard from 54'-10" to 21'-0"; the minimum rear yard required is 30'-0"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20'-0" of the rear lot line; and

WHEREAS, the Board observes that the Z.R. § 73-622 specifically contemplates such a reduction in the rear yard, and also observes that since the intrusion is in the rear yard, the proposed enlargement will not affect the streetscape; and

WHEREAS, accordingly, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor 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. §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space and side and rear yards, contrary to Z.R. §§ 23-141, 23-461, 23-47 and 54-31; *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 February 25, 2005"- (2) sheets, "June 20, 2005"-(1) sheet, "June 21, 2005"-(1) sheet, "July 22, 2005"-(5) sheets and "August 10, 2005"-(2) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the total FAR on the premises, including the attic, shall not exceed 1.0;

THAT the total attic floor area shall not exceed 250.22 sq. ft., as confirmed by the Department of Buildings;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, August 23, 2005.

154-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Wavebrook Associates, owner.

SUBJECT - Application April 9, 2004- under Z.R. §72-21 to permit the proposed construction of a four family dwelling,

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Use Group 2, located in M1-1 zoning district, is contrary to Z.R.§42-10.

PREMISES AFFECTED - 63 Rapeleye Street, north side, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Hiram Rothkrug and Eric Palatnik.

For Opposition: Rachael Dubin and Roger Rigolli.

ACTION OF THE BOARD – Laid over to October 18, 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.

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

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino and Arnold Montag.

For Opposition: Joan Vogt.

ACTION OF THE BOARD - Laid over to September 27, 2005, at 1:30 P.M., for continued hearing.

234-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Zunick Realty Corp., owner.

SUBJECT – Application June 18, 2004 - under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use regulations.

PREMISES AFFECTED – 255 McKibbin Street, between Bushwich Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Janice Calahane and Sheldon Lobel.

For Opposition: Anthony Parne and David Pritchmara.

ACTION OF THE BOARD – Laid over to

September 27, 2005, at 1:30 P.M., for continued hearing.

272-04-BZ

APPLICANT - Sullivan Chester & Gardner, for Chickie, LLC, owner.

SUBJECT - Application August 5, 2004 - under Z.R.§72-21 to permit the proposed five story, twenty-unit multiple dwelling, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, density, side and front yards, height and/or setback and parking spaces, is contrary to Z.R.§23-141, §23-22, §23-45a, §23-461(a and b), §23-462, §23-631d and §25-23.

PREMISES AFFECTED - 14-38/40 31st Drive, East side, between 14th and 21st Streets, Block 531, Lots 50 and 51, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Jeffrey Chester, Daniel Lane and Dominic Casamento.

For Opposition: Anthony Vidiante and Salvatore Pavone.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

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

ACTION OF THE BOARD - Laid over to September 20, 2005, at 1:30 P.M., for decision, hearing closed.

289-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Judo Associates, Inc., lessee.

SUBJECT – Application August 18, 2004 – under Z.R. §72-21 – to permit the proposed construction of a seven story mixed-use building, to contain commercial use on the ground floor, and residential use above, located within an M1-5B zoning district, which does permit residential use, is contrary to Z.R. §42-00 and §42-14.

PREMISES AFFECTED – 341 Canal Street, southeast corner of Greene Street, Block 229, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Sheldon Lobel and Jack Friedman.

For Opposition: David Reck, Barry Mallin and Pater Z. Pastor.

ACTION OF THE BOARD – Laid over to September 27, 2005, at 1:30 P.M., for continued hearing.

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299-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Sutphin Boulevard, owner.

SUBJECT - Application September 7, 2004 - under Z.R.§72-21 - Proposed construction of a one-story retail building, Use Group 6, located in an R3-2 zoning district, is contrary to Z.R. §22-11.

PREMISES AFFECTED - 111-02 Sutphin Boulevard, (a/k/a 111-04/12 Sutphin Boulevard), southeast corner of 111th Avenue, Block 11965, Lots 26, 188 and 189 (tentative 26), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Patrick Jones, Marc Chemtob, Dan Lane, Samuel Karrys.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

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

ACTION OF THE BOARD - Laid over to October 18, 2005, at 1:30 P.M., for decision, hearing closed.

374-04-BZ

APPLICANT – Deirdre A. Carson, Esq., Greenberg Traurig, LLP for Micro Realty Management, LLC c/o Werber Management, owner.

SUBJECT – Application November 26, 2004 – under Z.R. §72-21, to permit the proposed development of a seven-story residential building with ground floor commercial space in a C6-2A Special Lower Manhattan District and the South Street Seaport Historic District, to vary Sections 23-145, 23-32, 23-533, 23-692, 23-711 and 24-32 of the Resolution.

PREMISES AFFECTED – 246 Front Street, a/k/a 267½ Water Street, through lot fronting on Front and Water Streets, 126 feet north of the intersection of Peck Slip and Front Street, and 130 feet north of the intersection of Peck Slip and Water Street, Block 107, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Deirdre A. Carson.

For Opposition: Doris Diether, James Nachtwey, Randy

Polumbo, Sarah Anchiadoss and Rick Liss.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

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

ACTION OF THE BOARD - Laid over to October 18, 2005, at 1:30 P.M., for decision, hearing closed.

375-04-BZ

APPLICANT – Greenberg Traurig LLP, for Designs by FMC, owner.

SUBJECT – Application November 29, 2004 – under Z.R. §72-21 – to permit the proposed expansion of an existing jewelry manufacturer and wholesaler establishment, located in an M1-1 zoning district, which does not comply with zoning requirements for floor area ratio, rear yard, street wall height and adequate parking, is contrary to Z.R. §43-12, §43-302, §43-43 and §44-21.

PREMISES AFFECTED – 1527, 1529 and 1533 60th Street, north side, between 15th and 16th Avenues, Block 5509, Lots 64, 65 and 68, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Jay Segal, William Nusen and other.

ACTION OF THE BOARD – Laid over to September 27, 2005, at 1:30 P.M., for continued hearing.

388-04-BZ

APPLICANT - H. Irving Sigman, for D.R.D. Development Inc., owner.

SUBJECT – Application December 13, 2004 – under Z.R. §72-21 to permit the proposed construction of a one story and cellar commercial building, comprising of four stores, and accessory parking, Use Group 6, located in an R2 and a C8-1 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED – 133-16 Springfield Boulevard, west side, 114.44' north of Merrick Boulevard and 277' south of Lucas Street, Block 12723, Lot 9, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: H. Irving Sigman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

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

ACTION OF THE BOARD - Laid over to September 20, 2005, at 1:30 P.M., for decision, hearing closed.

MINUTES

29-05-BZ

APPLICANT – Stephen Rizzo (CR&A), for 350 West Broadway, L.P., owner; Lighthouse Rizzo 350, LLC, lessee. SUBJECT – Application February 17, 2005 - under Z.R. §72-21 to permit the proposed enlargement and renovation to an existing vacant fifteen story, to contain retail use in the cellar, first and second floor, and residential use on the third through fifteen floors, located in an M1-5A zoning district, is contrary to Z.R. §42-14, §42-00 and §42-10.

PREMISES AFFECTED – 350 West Broadway, 60' north of Grand Street, Block 476, Lot 75, Borough of Manhattan,

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Janice Cahalane, Rob Rogers, Stephen Rizzo, Robert Pauls, Ingrid Wiegard, Sean Sweeney and Victor Arbitrio.

ACTION OF THE BOARD – Laid over to September 20, 2005, at 1:30 P.M., for continued hearing.

68-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation Bais Chaim Yoshua, owner.

SUBJECT – Application March 18, 2005 – under Z.R. §72-21 – to permit the proposed enlargement of a three story plus attic building, currently housing a synagogue, with accessory residential on the second, third, and attic floors, which does comply with the zoning requirements for floor area ratio, side and front yards, is contrary to Z.R. §24-11, §24-162, §24-35, §24-34 and §23-141.

PREMISES AFFECTED – 4911 17th Avenue, east side, between 49th and 50th Streets, Block 5455, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel and Lewis Farlinhel.

ACTION OF THE BOARD – Laid over to September 20, 2005, at 1:30 P.M., for continued hearing.

74-05-BZ

APPLICANT – Snyder & Snyder, LLP, for The Island Swim Club, Inc.; Omnipoint Communications, Inc., lessee.

SUBJECT – Application March 29, 2005 – under Z.R. §§73-30 and 22-21 – to permit the proposed construction of a non-accessory radio tower for public utility wireless communications (disguised as a 50-foot tall flagpole), located in an R3-2 zoning district.

PREMISES AFFECTED – 1089 Rockland Avenue, northeast side, between Borman and Shirra Avenues, Block 2000, Lot 7, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Robert Bandiese.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for postponed hearing.

75-05-BZ

APPLICANT – Snyder & Snyder, LLP, for Immanuel Lutheran Church, owner; Omnipoint Communications, Inc., lessee.

SUBJECT – Application March 29, 2005 – under Z.R. §73-30 and §22-21 – to permit the proposed construction of a non-accessory radio tower for public utility wireless communications (disguised as a 90-foot tall flagpole), located in an R3-2 zoning district.

PREMISES AFFECTED – 2018 Richmond Avenue, approximately 650' south of Amsterdam Place and Richmond Avenue, Block 2100, Lot 460, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Robert Bandiese.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for postponed hearing.

77-05-BZ

APPLICANT – Greenberg Traurig, LLP by Deirdre Carson, for Jack Ancona, owner.

SUBJECT – Application March 29, 2005 – under Z.R. §72-21 – to permit the proposed construction of a twelve-story mixed building, containing residential and retail uses, located within an M1-6 zoning district, in which residential use is not permitted as of right, is contrary to Z.R. §42-00. PREMISES AFFECTED – 132 West 26th Street, south side, 364.5' west of Sixth Avenue, Block 801, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Deirdre Carson.

For Opposition: Stuart Klein.

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

Pasquale Pacifico, Executive Director.

MINUTES

Adjourned: 5:55 P.M.