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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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Volume 90, Nos. 25-26

June 16, 2005

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## DIRECTORY

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**SATISH BABBAR, *Vice-Chair***

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**JAMES CHIN**

*Commissioners*

**Pasquale Pacifico, *Executive Director***

**Roy Starrin, *Deputy Director***

**John E. Reisinger, *Counsel***

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<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
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## CONTENTS

DOCKET .....	375-376
<b>CALENDAR</b> of July 19, 2005	
Morning .....	377
Afternoon .....	378

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# CONTENTS

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**MINUTES of Regular Meetings,  
Tuesday, June 7, 2005**

Morning Calendar ..... 379

**Affecting Calendar Numbers:**

1111-62-BZ	201 East 56 <sup>th</sup> Street, a/k/a 935-951 Third Avenue, Manhattan
1129-64-BZ	147-36 Brookville Boulevard, Queens
258-90-BZ	2337 Coney Island Avenue, Brooklyn
189-96-BZ	85-12 Roosevelt Avenue, Queens
234-98-BZ	2600-2614 Adam Clayton Powell Jr. Boulevard, Manhattan
182-02-BZ	1705 Richmond Avenue, a/k/a 2990 Victory Boulevard, Staten Island
146-03-BZ & 139-02-A	1511 Third Avenue, a/k/a 201 East 85 <sup>th</sup> Street, Manhattan
45-65-BZ	1526 Grand Concourse, a/k/a 1539 Sheridan Avenue, Bronx
129-70-BZ	6/14 West 66 <sup>th</sup> Street, Manhattan
70-91-BZ	1894/1898 Hylan Boulevard, Staten Island
110-95-BZ	1845 Cornaga Avenue, Queens
91-02-BZ	3032-3042 West 22 <sup>nd</sup> Street, Brooklyn
211-04-A	216-50/56 28 <sup>th</sup> Avenue, Queens
301-04-BZY	102 Greaves Avenue, Staten Island
23-05-A	32 Bedford Avenue, Queens
85-05-A	8 Jamaica Walk, Queens

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# CONTENTS

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<b>MINUTES</b> of Regular Meetings,	
Afternoon Calendar .....	391

**Affecting Calendar Numbers:**

20-04-BZ	5723 17 <sup>th</sup> Avenue Brooklyn
127-04-BZ	5313/23 Fifth Avenue, Brooklyn
187-04-BZ	182 Malcolm X Boulevard, Brooklyn
252-04-BZ	170 North 11 <sup>th</sup> Street, Brooklyn
297-04-BZ	1174 East 22 <sup>nd</sup> Street, Brooklyn
345-04-BZ	1030-1044 Ocean Parkway, Brooklyn
354-04-BZ	637 Greenwich Street, Manhattan
356-04-BZ	60 East 55 <sup>th</sup> Street, Manhattan
344-03-BZ & 345-03-A	2777 Flatbush Avenue, Brooklyn
357-03-BZ	33 Berry Street, a/k/a 144 North 12 <sup>th</sup> Street, Brooklyn
397-03-BZ thru 405-03-BZ	1255/1257/1261/1263/1265/1267/1269/1271 60 <sup>th</sup> Street, Brooklyn
3-04-BZ	147-08 46 <sup>th</sup> Avenue, Queens
154-04-BZ	63 Rapeley Street, Brooklyn
255-04-BZ	1924 Homecrest Avenue, Brooklyn
272-04-BZ	14-38/40 31 <sup>st</sup> Drive, Queens
352-04-BZ	1845 Richmond Avenue, Staten Island
363-04-BZ	6002 Fort Hamilton Parkway, Brooklyn
402-04-BZ	2461 Knapp Street, Brooklyn
404-04-BZ	1384 East 24 <sup>th</sup> Street, Brooklyn
405-04-BZ	1734 East 27 <sup>th</sup> Street, Brooklyn

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# DOCKETS

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New Case Filed Up to June 7, 2005

**122-05-BZ**            B.BK.            525            Clinton Avenue,  
east side, 205.83' south of Fulton Street and 230.83' north of Atlantic Avenue, Block 2011, Lot 12, Borough of Brooklyn. Proposed development of thirteen story residential building, with a community facility on the ground and second floors, and forty-one accessory parking spaces on the site, requires a special permit from the Board as per §73-52.

**COMMUNITY BOARD #2BK**

**123-05-BZ**            B.BK.            161            Ashland Place,  
northeast corner of DeKalb Avenue, Block 2087, Lot 1, Borough of Brooklyn. Applic. #301678940. Proposed development of a tennis bubble and surrounding colonnaded parapet, on the roof of a five story, as-of-right athletic recreation and wellness center, presently under construction, located in an R6 zoning district, requires a special permit from the Board as per § 73-641.

**COMMUNITY BOARD #2BK**

**124-05-BZ**            B.M.            482            Greenwich Street,  
(a/k/a 527 Canal Street), northwest corner, Block 595, Lot 52, Borough of Manhattan. Applic. #104054871. Proposed construction of eleven story building, with residential use on it upper ten floors, located in a C6-2A zoning district, which does not comply with the zoning requirements for mixed use, floor area, lot coverage, side yard, court regulations, parking, residential floor area, wall location, height and setback, also curb cut, is contrary to Z.R. §35-00, §23-145, §35-52, §23-83, §13-143, §35-24 and §36-53.

**COMMUNITY BOARD #2M**

**125-05-BZ**            B.S.I.            47            Little Clove Road,  
corner of Little Clove Road and Cayuga Avenue, Block 662, Lot 29, Borough of Staten Island. Applic. #500507588. Proposed ambulatory diagnostic/treatment care facility (a/k/a medical offices), located in an R3-1 zoning district, with more than 1500 feet of floor area, requires a special permit from the Board as per §73-125.

**COMMUNITY BOARD #1SI**

**126-05-BZ**            B.BK.            1282          East 27<sup>th</sup> Street,  
northwest corner of Avenue "M", Block 7644, Lot 79,

Borough of Brooklyn. Alt. #301934236. Proposed enlargement and alteration of an existing one family dwelling, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, also side and rear yards, is contrary to §23-141(a), §23-46 and §23-47.

**COMMUNITY BOARD #14BK**

**127-05-BZ**            B.BK.            9216 Church Avenue, a/k/a 9220 Church Avenue, southwest corner of East 93<sup>rd</sup> and Linden Boulevard, Block 4713, lot 42, Borough of Brooklyn. Alt.1 #301933022. The legalization of an accessory drive-through facility, for an as-of-right food restaurant, located in an R5/C1-3 zoning district, requires a special from the Board as per §73-243.

**COMMUNITY BOARD #17BK**

**128-05-BZ**            B.BK.            1406 East 21<sup>st</sup> Street,  
between Avenues "L and M", Borough of Brooklyn. Alt.1 #301946438. Proposed enlargement of an existing single family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, also side and rear yard, is contrary to Z.R. §23-141, §23-461 and §23-47.

**COMMUNITY BOARD #14BK**

**129-05-BZ**            B.BK.            1161 East 21<sup>st</sup> Street,  
between Avenues "J and K", Borough of Brooklyn. Alt.1 #301946447. Proposed enlargement of an existing single family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, and rear yard, is contrary to Z.R. §23-141, and §23-47.

**COMMUNITY BOARD #14BK**

**130-05-BZ**            B.M.            74-88 Avenue of the Americas, a/k/a 11-15 Thompson Street and 27-31 Grand Street, east side of Avenue of the Americas, between Grand and Canal Streets, Block 227, Lots 50, 52 and 56, Borough of Manhattan. Applic.#104062648. Proposed development of a mixed-use building(residential and commercial), located in an M1-5B zoning district, is contrary to Z.R. §42-10 and §42-14(D) (2).

**COMMUNITY BOARD #2M**

**131-05-BZ**            B.Q                            72-01/72-11  
Roosevelt  
Avenue, 37-61/69 72<sup>nd</sup> Street and 72-18 Broadway,  
corner of 72<sup>nd</sup> Street and Broadway, Block 1283, Lot  
72, Borough of Queens. N.B. #402060899. Proposed  
construction of a five story mixed-use office and retail  
building, located in a C4-3 zoning district, which does

ratio, front wall height, number of parking spaces and  
loading berth, is contrary to Z.R. §33-122, §33-432,  
§36-21, §33-62 and §32-21.

**COMMUNITY BOARD #4Q**

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# DOCKETS

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not comply with the zoning requirements for floor area

**132-05-BZ**            B.BK.                        220 West End  
Avenue,  
west side, between Oriental Boulevard and Esplanade,  
Block 8724, Lot 158, Borough of Brooklyn. Alt.  
#301911992. Proposed enlargement of a single family  
dwelling, located in an R3-1 zoning district, which does  
not comply with the zoning requirements for floor area,  
floor area ratio, lot coverage, rear yard and perimeter  
wall, is contrary to Z.R. §23-141, §23-47 and §23-631.  
**COMMUNITY BOARD #15BK**

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**133-05-BZ**            B.BK.                        1231 East 21<sup>st</sup>  
Street,  
southeast corner of Avenue "K", Block 7621, Lot 41,  
Borough of Brooklyn. Alt. #301691097. Proposed  
enlargement of a single family dwelling, located in an  
R2 zoning district, which does not comply with the  
zoning requirements for open space ratio and floor  
area ratio, is contrary to Z.R. §23-141.  
**COMMUNITY BOARD #14BK**

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**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.**

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# CALENDAR

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**JULY 19 , 2005, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, July 19, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SUBJECT - Application June 7, 2005 - Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district.

PREMISES AFFECTED - 227 Mansion Avenue, Block 5206, Lot 26, Borough of Staten Island

**COMMUNITY BOARD# 3SI**

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## SPECIAL ORDER CALENDAR

### **130-59-BZ**

APPLICANT - Joseph P. Morsellino, for Doyle B. Shaffer, Inc., owner.

SUBJECT - Application March 18, 2005 - Extension of Term/Waiver of an existing parking area accessory to a funeral home. The premise is located in C1-2 in a R3-2 zoning district.

PREMISES AFFECTED - 45-17 Little Neck Parkway, Pembroke Avenue and Little Neck Parkway, Block 8260, Lot 98, Borough of Queens.

**COMMUNITY BOARD#11Q**

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### **364-89-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Kellarakos Realty, Inc., owner; Balvinder Bains, lessee.

SUBJECT - Application April 4, 2005 - Extension of Term of a Variance for an automotive service station (UG16). The premise is located in an R-6 zoning district.

PREMISES AFFECTED - 30-75 21st Street, southeast corner of 30th Drive, Block 551, Lot 15, Borough of Queens.

**COMMUNITY BOARD# 1Q**

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### **169-91-BZ**

APPLICANT - Ellen Hay @ Wachtel & Masyr, LLP, for Broadway Wilson Realty, LLC, owner; Crunch Fitness International, Inc., lessee.

SUBJECT - Application March 21, 2005 - Extension of Term for the continued operation of a PCE/Waiver and Amendment to legalize additional floor area. The premise is located in a M1-5B zoning district.

PREMISES AFFECTED - 404 Lafayette Street aka 708 Broadway, Lafayette Street and East 4th Street, Block 545, Lot 6, Borough of Manhattan.

**COMMUNITY BOARD 2M**

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### **132-97-BZ**

APPLICANT - Alan R. Gaines, Esq., for Deti Land, LLC, owner; Fiore Di Mare LLC, lessee.

### **302-04-BZ**

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### **291-04-A**

APPLICANT - Eric Palatnik, P.C., acting of Counsel to Charles Foy, Esq., for H & L Miller, A New York Partnership, owner.

SUBJECT - Application December 21, 2004 - Proposed enlargement of a zoning lot, on which an existing eating and drinking establishment rests, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -90-19 Metropolitan Avenue, northwest corner of Trotting Course Lane, Block 3177, Lot 34, Borough of Queens.

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### **21-05-A**

APPLICANT -Rampulla Associates Architects, for Geraldo Campitiello, owner.

SUBJECT - Application February 4, 2005 -Proposed addition to an existing banquet hall, which will be located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -2380 Hylan Boulevard, south side of Otis Avenue, Block 3904, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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**JULY 19, 2005, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, July 19, 2005, at 1:30 P.M., at 40 Rector Street, 6<sup>h</sup> Floor, New York, N.Y. 10006, on the following matters:

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## ZONING CALENDAR

APPLICANT - Martyn & Don Weston for Regina

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# CALENDAR

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Formisano, owner.

SUBJECT - Application September 10, 2004 - under Z.R. §72-21 to permit the proposed construction of a residential building on a vacant lot, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 40 Woodhull Street, south side, 85' west of Hicks Street, Block 363, Lot 20, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

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## **387-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Aspinwal Building Corp., (contract vendee).

SUBJECT - Application December 10, 2004 - under Z.R. §72-21 to permit the proposed construction of a one story and cellar building (retail and office), Use Group 6, located in an RS-2(HS) zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 908 Clove Road (formerly 904 and 908 Clove Road), east side, between Bard and Tyler Avenues, Block 323, Lot 42 (previously Lots 42 and 44), Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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## **31-05-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Larry Warren, owner.

SUBJECT - Application April 28, 2005 - under Z.R. §73-622 to permit the enlargement to a single family home to vary sections ZR 23-141 floor area, ZR 23-461 for side yards and ZR 23-631 for perimeter wall height. The premise is located in an R2X (OP) zoning district.

PREMISES AFFECTED - 1897 East Second Street, between Billings Place and Colin Place, Block 6681, Lot 211, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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## **34-05-BZ**

APPLICANT - Sheldon Lobel, P.C., for Robert Hakim, owner.

SUBJECT - Application February 24, 2005 - under Z.R. §73-622 to permit the proposed enlargement fo an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, also side and rear yards, is contrary to Z.R. §23-141, §23-461(a) and §23-47.

PREMISES AFFECTED - 1975 East 24th Street, east side, between Avenues "S" and "T", Block 7303, Lot 56, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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## **39-05-BZ**

APPLICANT - Eric Palatnik, P.C. for Yeshivas Ahavas

### **REGULAR MEETING**

**TUESDAY MORNING, JUNE 7, 2005**

**10:00 A.M.**

Israel Inc., owner.

SUBJECT - Application February 24, 2005 - Under Z.R. §72-21, to permit the enlargement of the existing Use Group 3 Yeshiva, in an R6 Zoning District and to vary Sections 24-11 (Lot coverage), 24-35(b) (Side yard), and 24-522 (Perimeter wall height, setback, and sky exposure plane) of the Resolution.

PREMISES AFFECTED - 6 Lee Avenue, West side of Lee Avenue between Clymer and Taylor Streets, Block 2173, Tentative Lot 35 (Formerly Lots 31 & 35), Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

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## **64-05-BZ**

APPLICANT - Paul F. Bonfilio, for Patrick & Elizabeth O'Connor, owner.

SUBJECT - Application March 16, 2005 - under Z.R. §72-21 to construct a single family detached residence with less than the required lot area ZR 23-32 and less than the required side yard width ZR 23-461. The vacant lot/site is located in a R1-2 zoning district.

PREMISES AFFECTED - 40 Conyningham Avenue, west side, between Springhill and Castleton Avenues, Block 101, Lot 445, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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## **71-05-BZ**

APPLICANT - Sheldon Lobel, P.C., for Barbara and Marc Tepler, owner.

SUBJECT - Application March 23, 2005 - under Z.R. §73-622 to permit the enlargement of a single family residence which exceeds the allowable floor area and less than the minimum required open space per ZR23-241, less than the minimum side yard per ZR23-46 and less than the minimum rear yard per ZR23-47. The premise is located in an R-2 zoning district.

PREMISES AFFECTED - 1226 East 29th Street, west side, between Avenues "L and M", Block 7646, Lot 56, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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*Pasquale Pacifico, Executive Director*

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

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# MINUTES

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The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, March 29, 2005, were approved as printed in the Bulletin of April 7, 2005, Volume 90, Nos. 15-16.

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## SPECIAL ORDER CALENDAR

### 1111-62-BZ

APPLICANT - Sheldon Lobel. P.C., for 200 East Tenants Corporation, owner; Adonis Parking, LLC, lessee.

SUBJECT - Application September 23, 2004 - Extension of Term of a variance to permit transient parking beyond the Ten year term expiring on March 26, 2003 in the C5-2 portion of the lot.

PREMISES AFFECTED - 201 East 56<sup>th</sup> Street, a/k/a 935-951 Third Avenue, 201-207 East 56<sup>th</sup> Street and 200-210 East 57<sup>th</sup> Street, Manhattan.

### COMMUNITY BOARD #6M

#### APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on conditions.

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

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

#### THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening and, pursuant to Z.R. § 11-411, an extension of the term of the variance, which expired on March 26, 2003; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in *The City Record*, and then to decision on June 7, 2005; and WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

WHEREAS, on March 26, 1963, under the above referenced calendar number, the Board granted an application to permit the use of surplus parking spaces in a multiple dwelling for transient parking for a term of 20 years pursuant to Section 60 of the Multiple Dwelling Law; and

WHEREAS, since the original grant, the applicant has obtained subsequent minor amendments and extensions of the term of the variance, the most recent extension being granted on October 14, 1997; and

WHEREAS, the subject garage occupies the first floor, cellar and sub-cellar of the building; and

WHEREAS, the Board finds that this application for an extension of term is appropriate to grant.

Therefore it is Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure and *reopens and amends* the resolution, said resolution having been adopted on March 26, 1963, and subsequently amended and extended, and extends the term of the variance, which expired on March 26, 2003, so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten years from March 26, 2003, expiring on March 26, 2013; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received May 25, 2005"- (3) sheets; *and on further 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;

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." (DOB Application #103829699)

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

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### 1129-64-BZ

APPLICANT - Sheldon Lobel. P.C., for 147-36 Brookville Boulevard Corp., owner.

SUBJECT - Application November 10, 2004 - Extension of term filed pursuant to sections 72-01 and 72-22, which was originally granted March 2, 1965, to permit the erection of a one story enlargement to an existing building used for the sale of auto supplies in an R3-2 zoning district.

PREMISES AFFECTED - 147-36 Brookville Boulevard, southwest corner of 147th Road and Brookville Boulevard, Block 13729, Lot 33, Borough of Queens.

### COMMUNITY BOARD #13Q

#### APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

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# MINUTES

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

THE RESOLUTION -

WHEREAS, this is an application for a reopening and, pursuant to Z.R. §§ 72-01 and 72-22, an extension of the term of the variance, which will expire on June 10, 2005; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in *The City Record*, and then to decision on June 7, 2005; and WHEREAS, Community Board 13, Queens, and the Queens Borough President recommend approval of this application subject to certain conditions listed below; and

WHEREAS, on March 2, 1965, under the above referenced calendar number, the Board granted an application to permit, in an R3-2 district, the erection of a one-story enlargement to an existing building to be used for the sale of auto supplies for a term of ten years; and

WHEREAS, since the original grant, the applicant has obtained subsequent extensions of the term of the variance, the most recent extension being granted on October 16, 1996; and

WHEREAS, the subject building is located on the southwest corner of 14<sup>th</sup> Road; and

WHEREAS, in a letter dated January 13, 2005 to the Queens Borough President, and in a subsequent letter to the Board dated May 17, 2005, the owner, Melvin Gallub of Rosedale Auto Parts, Inc., agreed to comply with certain conditions requested by the Queens Borough President and Community Board 13, including: posting signs and taking other necessary action to discourage clientele from replacing auto parts or doing mechanical work on the street outside the establishment; removing and permanently banning abandoned vehicles from the parking lot; performing general maintenance and improvements to the property; performing a general clean-up of the property and continuing to maintain the property free of litter; maintaining bushes and shrubs; discouraging motorists from using the parking lot as a public street by keeping one gate closed except when actually in use; and updating, removing and replacing signage affixed to the building in accordance with the Building Code; and

WHEREAS, therefore, the Board finds that this application for an extension of term is appropriate to grant.

*Therefore it is Resolved*, that the Board of Standards and Appeals, *reopens and amends* the resolution, said resolution having been adopted on March 2, 1965, and subsequently amended and extended, and extends the term of the variance, which will expire on June 10, 2005 so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten years from June 10, 2005 expiring on June 10, 2015; *on condition* that all work shall substantially

conform to drawings as they apply to the objection above-noted, filed with this application marked "Received May 25, 2005"-(3) sheets; *and on further condition*:

THAT all mechanical work and replacement of auto parts shall take place on the site and no work shall be done on the streets surrounding the site; signs shall be posted to that effect;

THAT any and all abandoned vehicles shall be removed from the parking lot;

THAT general maintenance and improvements shall be performed on the property, including trim painting, litter removal, and the clean-up of bushes and shrubs;

THAT the gates to the parking area shall be closed at all times except when in actual use;

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

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

THAT the signs affixed to the building shall be updated, removed and replaced in compliance with the Building Code;

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." (DOB Application #402017571)

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

**258-90-BZ**

APPLICANT - Sheldon Lobel, P.C., for John Isikli, owner.  
SUBJECT - Application March 31, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a certificate of occupancy for the proposed restaurant and banquet hall.

PREMISES AFFECTED - 2337 Coney Island Avenue, easterly side of Coney Island Avenue between Avenue T and Avenue U, Block 7315, Lot 73, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....

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# MINUTES

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.....0  
Absent: Vice-Chair  
Babbar.....1

THE RESOLUTION -

WHEREAS, this is an application for waiver of the Rules of Practice and Procedure, and an extension of

WHEREAS, on December 10, 1991, the Board granted a variance application under the subject calendar number to permit the legalization of the conversion of the second floor of a two-story restaurant and residential building to a restaurant and banquet hall, and the extension of the non-conforming eating and drinking use into the rear yard; and

WHEREAS, the grant was subsequently modified to permit new interior layouts on March 2, 1999; and

WHEREAS, pursuant to the resolution issued for this modification, a new certificate of occupancy was to be obtained by March 2, 2000; and

WHEREAS, the applicant states that the reason for the requested extension of time is due to delay in processing the certificate of occupancy application at the Department of Buildings because of a change in ownership; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on December 10, 1991, and subsequently amended on March 2, 1999, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete obtain a certificate of occupancy for the restaurant and banquet hall, for an additional eighteen (18) months from the date of this resolution to expire on December 7, 2006; *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. 941/1999)

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

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**189-96-BZ**

APPLICANT - John C Chen, for Ping Yee, owner; Edith D'Angelo-Cnandonga, lessee.

SUBJECT - Application September 8, 2004 - Extension of

time to obtain a certificate of occupancy for a restaurant and banquet hall previously approved by the Board; and

WHEREAS, a public hearing was held on this application on May 24, 2005 after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

Term-Waiver- for an eating and drinking establishment with dancing, Located in an C2-3 overlay within an R6 zoning district.

PREMISES AFFECTED - 85-12 Roosevelt Avenue, (85-10 Roosevelt Avenue), south side of Roosevelt Avenue, 58' east side of Forley Street, Block 1502, Lot 3, Borough of Queens.

**COMMUNITY BOARD #4Q**

APPEARANCES -

For Applicant: John Chen.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....

.....0

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

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of a special permit previously granted by the Board; and

WHEREAS, a public hearing was held on this application on March 29, 2005, after due notice by publication in the *City Record*, with a continued hearing on May 10, 2005, and then to decision on June 7, 2005; and

WHEREAS, Community Board No. 4, Queens, recommends disapproval of the subject application, and expressed certain concerns related to patrons or employees loitering outside of the rear of the establishment during business hours (until 5AM); and

WHEREAS, the Board directed the applicant to address these concerns; and

WHEREAS, the premises is within a C2-3 (R6) zoning district, is located on the south side of Roosevelt Avenue, west of Forley Street, and is currently improved upon with a two-story building, with an eating and drinking establishment with entertainment and dancing (U.G. 12) on the ground floor; and

WHEREAS, on May 19, 1998, under the subject calendar number, the Board granted a special permit under Z.R. § 73-244, permitting the change in use of an existing eating and drinking establishment (U.G. 6) to an eating and drinking establishment with entertainment and dancing (U.G. 12); and

WHEREAS, the Board granted an extension of the special permit on May 19, 2001; such extension expired on May 19, 2004; and

WHEREAS, the applicant now seeks an extension

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# MINUTES

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of the term of the special permit for three years; and

WHEREAS, in response to the Community Board concerns and at the direction of the Board, the applicant has agreed to install an alarm and panic bar on the door in the rear of the building on Forley Street and indicate

*Therefore it is Resolved* that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the resolution for three years from May 19, 2004 expiring May 19, 2007; *on condition* that this use shall substantially conform to drawings for the ground floor and cellar of the building filed with this application marked 'Received May 19, 2005'-(5) sheets; and *on further condition*:

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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. 401982075)

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

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## 234-98-BZ

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

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

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

### COMMUNITY BOARD #10M

#### APPEARANCES -

For Applicant: John Ronan.

**ACTION OF THE BOARD** - Application granted on condition.

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

that such door is "exit only" to minimize loitering on a residential street; and

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

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

#### THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, an extension of time to complete construction of, and obtain a certificate of occupancy for, an automotive use previously approved by the Board, and an amendment to the previously approved plans; and

WHEREAS, a public hearing was held on this application on January 13, 2004 after due notice by publication in the *City Record*, with continued hearings on March 9, 2004, April 27, 2004, June 8, 2004, September 21, 2004, November 9, 2004, February 1, 2005, May 17, 2005, and then to decision on June 7, 2005; and

WHEREAS, on November 23, 1999, the Board adopted a resolution under the subject calendar number, authorizing, within an R7-2 zoning district, the reinstatement of a gasoline service stations and the establishment of an automatic auto laundry for a term of twenty years; and

WHEREAS, the period in which to complete construction and obtain a certificate of occupancy expired on November 23, 2003; and

WHEREAS, the applicant represents that negotiations between the property owner and prospective tenants were not successful, and that no construction has been initiated, thus necessitating the request for an extension of time; and

WHEREAS, as to the application for an amendment, the applicant initially proposed the retention of the car wash use and the elimination of the gasoline service station use; and

WHEREAS, the applicant then proposed the creation of a public parking lot and a stand-alone lube oil facility; and

WHEREAS, in response to concerns of the Community Board, the proposal was modified to eliminate the oil lube facility; thus, the final uses approved on the site will be car wash with accessory sales, and public parking lot; and

WHEREAS, again in response to concerns of the Community Board, the applicant has eliminated two curb cuts on Adam Clayton Powell Jr. Blvd., and one curb cut on West 150<sup>th</sup> Street, as reflected on the BSA-approved plans; and

WHEREAS, at the request of the Board, the applicant also agreed to remove a cashier booth, as

# MINUTES

well as relocate the carwash queue closer to the 150<sup>th</sup> Street lot line; and

WHEREAS, based upon the above, the Board has determined that the evidence in record supports the grant of the requested waiver, extension and amendment, with conditions as reflected below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on November 23, 1999, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction and obtain a certificate of occupancy for two additional years from the date of this

THAT all signage on the site shall conform to the BSA-approved signage plan;

THAT the cashier booth currently at the site shall be removed;

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. 102845398 & 101850757)

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

## 182-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Marcello Porcelli, owner; BP Amoco, plc, lessee.

SUBJECT - Application December 20, 2004 - reopening to request an amendment to redesign a gasoline service station previously approved in 2003. Relocation and reduction of floor area of the convenience store, relocate the fuel dispenser islands and canopy, increase the curb cuts from three to five and to modify the landscaping. The premise is located in R3-2/C1-2 and R3-2 zoning district.

PREMISES AFFECTED - 1705 Richmond Avenue, aka 2990 Victory Boulevard, southeast corner of the intersection of Richmond Avenue and Victory Boulevard, Block 2072, Lot 42, Borough of Staten Island.

## COMMUNITY BOARD #2S.I.

### APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application granted on condition.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

resolution to expire on June 7, 2007, to permit an amendment to the previously approved plans, to permit the elimination of the gasoline sales use, and to permit the public parking use; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received March 31, 2005'-(4) sheets and 'May 19, 2005'-(1) sheet; and *on further condition*:

THAT the existing chain link fence shall be repaired or replaced;

THAT two curb cuts on Adam Clayton Powell Jr. Blvd., and one curb cut on West 150<sup>th</sup> Street, shall be removed, as illustrated on the BSA-approved plans;

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

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

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

### THE RESOLUTION -

WHEREAS, this is an application made pursuant to Z.R. §§ 72-02 and 72-22 for a re-opening and an amendment to the resolution of a previously granted Board variance, permitting the reconstruction of an existing gasoline service station; and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in the *City Record*, and then to closure and decision on June 7, 2005; and

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

WHEREAS, on July 25, 1957, under the calendar number 32-57-BZ, the Board granted a variance to permit the reconstruction of an existing automotive station; and

WHEREAS, this grant has been modified and amended at various times, most recently in 2003; and

WHEREAS, the site is currently within an R3-2/C1-2 and R3-2 zoning district; and

WHEREAS, the owner has not yet commenced reconstruction of the gas station as approved by the Board on January 7, 2003; and

WHEREAS, due to a change in the owner's standards, the applicant now seeks an amendment to the resolution to permit: relocation of the convenience store and a reduction in the size of the store; reconfiguration of the proposed six fuel pumps; redesign of the canopy; certain changes with respect to the side yards and front yards due to relocating the store, canopy and dispenser islands; an increase in curb cuts from three to five; relocation of tanks; to increase the trash enclosure; modification of certain landscape and curbing; and increase in signage; and

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# MINUTES

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WHEREAS, at the request of the Board, the applicant agreed to extend the planting area along the northerly side of the lot on Richmond Avenue, create a second door to the convenience store, and reduce the northerly curb cut on Richmond Avenue; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution, pursuant to Z.R. §§ 72-02 and 72-22.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution pursuant to Z.R. §§ 72-02 and 72-22, so that as amended this portion of the resolution shall read: "to permit in an R3-2 zoning district with a C1-2 overlay zoning district, the erection of a new automotive service station, with an accessory convenience store, (Use Group 16b) contrary to Z.R. Section 32-25; *on condition 146-03-BZ/139-02-A*

APPLICANT - Jesse Masyr, Wachtel & Masyr, LLP, for 1511 Third Avenue Assoc., owner.

SUBJECT - Application January 19, 2005 - request for a rehearing to permit the filing of a new special permit application pursuant to Z.R. §73-36 to legalize the operation of a physical culture establishment based on substantial new evidence and material changes in the proposed plans. Based on the new evidence, this application requests that the Board permit the filing of a modification to a condition in a previously decided Appeals case under Cal. No. 139-02-A. PREMISES AFFECTED - 1511 Third Avenue, a/ka 201 East 85th Street, southwest corner bounded by Second and Third Avenues and East 85<sup>th</sup> and 86<sup>th</sup> Streets, Block 1531, Lot 1, Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted in part and dismissed in part.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

Negative:.....0

.....0

Absent: Vice-Chair

Babbar.....1

## THE RESOLUTION -

WHEREAS, this is an application made pursuant to Section 1-10(e) of the Board's Rules of Practice and Procedure for a re-hearing of a special permit application previously denied by the Board, as well as an application for a potential technical amendment to a condition imposed by the Board in a previously decided appeal; and

WHEREAS, a public hearing was held on this application on April 20, 2005, after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

WHEREAS, the subject premises is a corner lot with approximately 77 feet, 6 inches of frontage on Third

that all work shall substantially conform to drawings as filed with this application, marked "May 24, 2005"-(6) 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 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. 500744992)

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

Avenue and 125 feet of frontage on East 85<sup>th</sup> Street, with approximately 100 feet of frontage within a C2-8A zoning district and the remainder within an R8B zoning district; and

WHEREAS, the subject premises is improved upon with a four-story and basement commercial building; and

WHEREAS, this building is currently occupied by a retail clothing store on the first floor, and by the subject Physical Culture Establishment ("PCE") on the second and parts of the third and fourth floors; and

WHEREAS, the site has been the subject of five other applications at the Board; and

WHEREAS, under Calendar No. 34-96-BZ, an application for a special permit pursuant to Z.R. § 73-36 was made in order to legalize the subject PCE; this application was converted to a variance and subsequently denied; and

WHEREAS, under Calendar No. 119-99-A, an administrative appeal, the appellant (an adjacent property owner who is in opposition to the instant application, hereinafter referred to as the "opposition"), sought a revocation of Department of Buildings ("DOB") permits that legalized the construction of a rear yard encroachment on the second, third, and fourth floors of the subject building; this appeal was granted, with the Board finding that the rear yard encroachment could not be considered a permitted rear yard obstruction as defined in Z.R. § 33-23(b); and

WHEREAS, under Calendar No. 332-01-BZ, which was an application for a special permit under Z.R. § 73-36, the applicant proposed to rectify the unlawful enlargement of the PCE on the third and fourth floors through an arrangement that purported to provide separation between a proposed community facility tenant and the subject PCE; this application was denied by the Board; and

WHEREAS, while the public hearing process of Calendar No. 332-01-BZ was proceeding, the Board also heard an application made under Calendar No. 139-02-A, an administrative appeal of an April 17, 2002

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# MINUTES

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Department of Buildings determination declining to seek a revocation or modification of Certificate of Occupancy Number 107549, issued on July 7, 1995 to the subject building; and

WHEREAS, the appellant in 139-02-A (the opposition in the instant matter), contended that the presence of the PCE in the subject building constituted a non-conforming use subject to the lapse provisions of Z.R. § 52-60 et. seq.; and

WHEREAS, upon a review of the record and of the definition of non-conforming use as set forth at Z.R. § 12-10, the Board found that, with the exception of the 4,400 square feet addition constructed after the 1995 Certificate of Occupancy was issued, the subject building's excess commercial floor area did not constitute a non-conforming use, but was rather a non-complying condition with regard to the commercial floor area as per Z.R. § 33-12; and

WHEREAS, after dispensing with the substance of the appeal, the Board also found that the Certificate of Occupancy needed modification to provide an adequate representation of permitted uses; and

WHEREAS, because of this potentially dangerous egress path, the Board determined that the finding set forth at Z.R. § 73-36 (1) - specifically, that there would be no impairment on the use of an adjacent area due to the grant of the special permit - had not been met; and

WHEREAS, also because of this potentially dangerous egress path, the Board determined that one of the general findings applicable to all special permit applications, set forth at Z.R. § 73-03(a) – specifically, that the hazards or disadvantages of the proposed special permit use are outweighed by the advantages to be derived by the community by the grant of the special permit – had not been met; and

WHEREAS, additionally, the Board noted that the applicant appeared to have engaged in a pattern of misrepresentation in the subject application, insofar as it had: supplied the Board with contradictory information concerning the available legal commercial floor area, failed to remove a rear yard obstruction in its entirety as it promised and as it was ordered to do, and failed to adequately address the concerns of the Board as to the creation of a completely separate community facility space; and

WHEREAS, the applicant now applies for a re-hearing of the previously denied special permit application, on the basis that there has been a material change in the plans and that there is substantial new evidence; and

WHEREAS, Section 1-10(e) of the Rules of Practice and Procedure provides: "A request for a rehearing shall not be granted unless substantial new evidence is submitted that was not available at the time of the initial hearing, or there is a material change in plans or circumstances or an application is filed under a different jurisdictional provision of the law."; and

WHEREAS, the applicant states that the following

WHEREAS, in its resolution issued under Calendar No. 139-02-A on December 10, 2002, the Board set forth such modification; and

WHEREAS, certain conditions in this resolution reads as follows: "That commercial usage in the subject building shall be limited to the pre-existing, legally non-complying 30,340 square feet of area; That any additional floor area other than aforementioned 30,340 square feet and in particular, the 4,400 square foot infill addition, shall be built and used in compliance and conformance with all underlying zoning regulations."; and

WHEREAS, in 2003, an application was made under the subject calendar number for a special permit pursuant to Z.R. § 73-36; the application again sought approval to legalize the existing PCE; and

WHEREAS, on December 9, 2004, the Board denied the special permit application; and

WHEREAS, in denying the application, the Board found that the proposed egress path for the occupants of the proposed community facility was not compliant with the Building Code; and

constitutes new evidence and/or a material change in plans or circumstances: (1) a new third and fourth floor plan that consolidates the entire community facility use on the third floor so that there is a logical separation between the PCE and community facility use; (2) the substitution of a Building Code-compliant egress path for the previously proposed egress path; (3) a new co-applicant (the owner of the subject building); and (4) new plans from 1930 that show that the second floor was not a full floor as previously thought, thus decreasing the overall amount of commercial floor area that can be developed at the premises, versus what amount was previously represented to exist in the prior hearing under this calendar number; and

WHEREAS, the Board observes that the new application attempts to address the concerns expressed in the resolution issued under the subject calendar number; and

WHEREAS, therefore, the Board finds that the material changes to the plans and the new evidence, as referenced above, are sufficient to warrant a re-opening of the special permit application for legalization of the subject PCE; and

WHEREAS, opposition to this application for a re-hearing argues that the Board should not entertain it because the proposed PCE, if legalized, will use more commercial floor area than is allowed per the above-mentioned condition, listed in the resolution issued under BSA Cal. No. 139-02-A; and

WHEREAS, the Board disagrees that this prevents the special permit application from being re-opened; and

WHEREAS, the PCE may be legalized through a special permit only if it occupies existing lawful commercial floor area; and

WHEREAS, in the context of the new special permit

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# MINUTES

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application, the applicant will have to prove that the floor area calculations, based upon the newly discovered evidence, are accurate; and

WHEREAS, however, this showing need not be made during the subject application; the only relief being requested is a re-opening; and

WHEREAS, instead, if it become apparent during the new hearing that the PCE occupies more floor area than what is lawful, then use of Z.R. § 73-36 to legalize the PCE would not be appropriate; and

WHEREAS, the opposition's other arguments concerning the PCE operator's past behavior also appear to be made on the assumption that the Board is granting the special permit through the instant application; and

WHEREAS, again, the only outcome of the Board's decision herein is that the applicant will be afforded the opportunity to convince the Board that the special permit is appropriate to grant; and

WHEREAS, the opposition also argues that the applicant should not be allowed to apply to re-open BSA Cal. No. 139-02-A; and

WHEREAS, the Board recognizes that it has the authority to modify and/or make technical corrections to prior resolutions pursuant to the Charter and its own Rules of Practice and Procedure; however, rather than making such technical correction to the resolution for 139-02-A on its own outside of any formal process or on its own application, the Board felt it made more sense for the applicant to apply for this potential technical correction, which, again, would only be granted if the Board agreed it was appropriate; and

WHEREAS, the opposition argues that since the Board's Rules do not specifically state that a case may be re-opened for only a discrete specific matter related to the case, the appeal must be re-heard in its entirety; and

WHEREAS, however, the opposition cites no authority for such a conclusion; in any event, through this resolution, the Board is plainly establishing the parameters of its procedure as to 139-02-A; and

WHEREAS, thus, the opposition's insistence that they should be allowed to present evidence on the appeal in general is unavailing and will not be honored by the Board; and

WHEREAS, the opposition also argues that only they should be allowed to re-open the matter, since it brought the appeal initially; and

WHEREAS, this argument ignores the Board's authority to direct its own process, as well as the fact that the merits of the appeal are not being revisited; and

WHEREAS, it also ignores the fact that the conditions in the resolution for 139-02-A function as a limitation on the property rights of the building owner; and

WHEREAS, an application for a re-opening of an appeal, the resolution of which contains conditions that limit the property rights of the affected property owner,

WHEREAS, the Board disagrees and notes that 139-02-A – which, as discussed above, was an appeal of a DOB determination not to revoke the certificate of occupancy based on opposition's theory that the PCE was a non-conforming use – is not being re-opened for a full discussion of the merits of the appeal; the Board's decision on the merits stands and will not be revisited; and

WHEREAS, rather, in the interest of administrative convenience, transparency of process and good record keeping, the Board asked the applicant to apply to have this matter re-opened for the sole purpose of amending the floor area limitations set forth in the resolution, assuming, of course, that the applicant successfully convinces the Board during the new hearing on the special permit application that its floor area calculations are accurate; and

WHEREAS, the opposition will be afforded the opportunity to challenge the accuracy of all proffered evidence in the new special permit hearing, including evidence related to available lawful commercial floor area; and

may be appropriately brought by the owner so long as the standards for re-opening are met; and

WHEREAS, the Board concludes that this standard has been met, given the existence of new plans that could potentially affect the floor area calculations for the subject building; and

WHEREAS, nonetheless, the Board, through this resolution, dismisses as moot the application for re-opening of 139-02-A as presented by the applicant, since it is premature; if the represented amount of available commercial floor area is confirmed by the Board, then the floor area conditions set forth in the resolution for 139-02-A can be modified in the interest of good record keeping, on the Board's own authority.

*Therefore it is Resolved* that, based upon the above, the application for a re-hearing of the special permit application made under BSA Calendar No. 146-03-BZ is granted; a new calendar number will be assigned. The Board also dismisses the application to re-open BSA Cal. No. 139-02-A and asserts its authority to modify conditions in the resolution issued under this calendar number, should the Board deem such modification necessary.

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

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## 45-65-BZ

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

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

PREMISES AFFECTED - 1526 Grand Concourse aka 1539

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# MINUTES

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Sheridan Avenue, Sheridan Avenue between East 172<sup>nd</sup> Street and Mount Eden Parkway, Block 2821, Lot 11, Borough of The Bronx.

## COMMUNITY BOARD #4BX

APPEARANCES -

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 June 14, 2005, at 10 A.M., for decision, hearing closed.

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## 129-70-BZ

APPLICANT - Sheldon Lobel, P.C., for 10 West 66<sup>th</sup> Street Corp., owner.; 10 West 66<sup>th</sup> Street Garage Corp., lessee.

SUBJECT - Application January 28, 2005 - Extension of Term of variance for use of unused and surplus parking spaces for transient parking, limited to 75 spaces, in thirty-two story multiple dwelling located in a C4-7 and R-10 zoning district.

PREMISES AFFECTED - 6/14 West 66<sup>th</sup> Street, south side of West 66<sup>th</sup> Street, 125' west of Central Park West, Block 1118, Lot 22, Borough of Manhattan.

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 July 12, 2005, at 10 A.M., for decision, hearing closed.

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## 110-95-BZ

APPLICANT - John W. Russell, Esq., for 1845 Realty, Inc., owner; 1845 Cornaga Avenue, lessee.

SUBJECT - Application March 15, 2004 - Extension of Term of a variance, which permitted, within a C2/R5 zoning district, the operation of a auto repair facility (UG16), with accessory uses, including parking and minor repairs using handtools.

PREMISES AFFECTED - 1845 Cornaga Avenue, southwest corner of Cornaga Avenue and B19th Street, Block 15563, Lot 1, Borough of Queens.

## COMMUNITY BOARD #14

APPEARANCES -

For Applicant: John W. Russell.

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

## COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Richard Lobel.

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 July 12, 2005, at 10 A.M., for decision, hearing closed.

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## 70-91-BZ

APPLICANT - Salvadeo Associates by David L. Businelli, for Mid Island Realty Corp., owner.

SUBJECT - Application January 4, 2005 and updated January 18, 2005 for an Extension of Term/Waiver of a variance to allow commercial/retail stores UG6 in an R3-2 zoning district.

PREMISES AFFECTED - 1894/1898 Hylan Boulevard, east side 40.6' north of Seaver Avenue, Block 3657, Lots 1 & 3, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES - None.

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## 91-02-BZ

APPLICANT - Sheldon Lobel, P.C., for David Winiarski, owner.

SUBJECT - Application April 13, 2004 - reopening for an amendment to a previously granted variance under ZR §72-21 to allow minor modification of the approved plans.

PREMISES AFFECTED - 3032-3042 West 22<sup>nd</sup> Street, West 22nd Street, 180' north of Highland View Avenue, Block 7071, Lot 19 (aka 19, 20, 22), Borough of Brooklyn.

## COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Laid over to July 12, 2005, at 10 A.M., for continued hearing.

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## 211-04-A

APPLICANT - Sheldon Lobel, P.C., for Grace Presbyterian Church, owner.

SUBJECT - Application May 21, 2004 - Proposed expansion and renovation of an existing church building, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 216-50/56 28th Avenue, southwest corner of Cross Island Parkway, Block 6019, Lot 108, Borough of Queens.

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# MINUTES

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## COMMUNITY BOARD #11

### APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Application granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

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

### THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated April 23, 2005, acting on Department of Buildings Application No. 401619664, reads:

“1. Proposed construction of new church building and renovated existing building within a bed of a mapped street is contrary to Section 35 of General City Law”; and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

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

WHEREAS, by letter dated July 12, 2004, the Department of Environmental Protection has reviewed

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated, April 23, 2005, acting on Department of Buildings Application No. 401619664, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received June 6, 2005” - (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 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 a 35 foot wide “Sewer Corridor” in the bed of Little Neck Boulevard be provided for the future installation, maintenance and /or reconstruction of the drainage plan, and 10”dia. sanitary and 24” dia. storm sewers; and

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

the above project and has requested that a 35 foot wide “Sewer Corridor” in the bed of Little Neck Boulevard be provided for the future installation, maintenance and /or reconstruction of the drainage plan, and 10”dia. sanitary and 24” dia. storm sewers; and

WHEREAS, by letter dated January 27, 2005, the applicant has agreed to install the corridor which would mostly measure 35 feet in width, with a small portion narrowed to 22 feet, 4inches, due to the location of the existing building; and

WHEREAS, by letter dated March 8, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, certain members of the community appeared in opposition to this project, citing concerns about the expansion of the church in general, and the possibility that not enough parking exists to accommodate the congregation, as well as possible traffic impacts; and

WHEREAS, the Board notes that no parking or bulk requirements applicable to the subject site are being waived; all parking requirements, as well as other zoning and Building Code requirements must be complied with; and

WHEREAS, the Board also notes that the church is already sited within the bed of the mapped street, and that the building was in existence before this street was mapped; and

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

other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

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

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## 301-04-BZY

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for Medhat M. Hanna, owner.

SUBJECT - Application September 10, 2004 - Application to complete construction for a minor development as per Z.R. §11-331.

PREMISES AFFECTED - 102 Greaves Avenue, corner of Dewey Avenue, Block 4568, Lot 40, Borough of Staten Island.

## COMMUNITY BOARD #3SI

### APPEARANCES -

For Applicant: David Businelli.

**ACTION OF THE BOARD** - Application granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....

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# MINUTES

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.....0

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

## THE RESOLUTION -

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

WHEREAS, a public hearing was held on this application on \*\*\* after due notice by publication in *The City Record*, with a continued hearing on May 10, 2005 and then to decision on June 7, 2005; and

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

WHEREAS, Community Board 3, Staten Island, opposed the granting of any relief to the applicant; and

WHEREAS, Council Member Andrew Lanza appeared in opposition to the subject application; and

WHEREAS, the subject premises is located on a triangular piece of land bordered by Greaves Avenue, Dewey Avenue and Dewey Place; and

WHEREAS, the subject premises is located within an R3-1 zoning district; and

WHEREAS, the subject premises is proposed to be developed with a single family home; and

WHEREAS, however, on August 12, 2004 (hereinafter, the "Enactment Date"), at approximately 1:30PM, the City Council voted to enact text changes to

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

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, the Board notes that this application was made on September 10, 2004, which is within 30 days of the Rezoning Date, as required by Z.R. § 11-331; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on July 26, 2004 a new building permit (Permit No. 500695606-01-NB; hereinafter, the "NB Permit") for the new building was lawfully issued to the applicant by the Department

the Zoning Resolution in response to the recommendations of the Staten Island Growth Management Task Force, rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and of Buildings; and

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

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

WHEREAS, the applicant represents that excavation of the site took place on August 5, 6 and 9, 2004; and

WHEREAS, applicant represents that complete footings were put in place on August 9, 2004; and

WHEREAS, in support of the contention that concrete for the footings was poured on August 9, 2004, the applicant has submitted a receipt from a concrete batching company reflecting the pouring of 16 yards of concrete, dated August 9, 2004; and

WHEREAS, the applicant further represents that on August 11 and 12, 2004, the forms for the structure were completed, and on August 12, 2004, 22 yards of concrete was poured in the early afternoon; and

WHEREAS, in support of the contention that concrete for the walls were poured on August 12, the applicant has submitted an additional receipt from a concrete batching company reflecting the pouring of 22 yards of concrete between 4:15PM and 4:50PM, dated August 12, 2004; and

WHEREAS, Community Board 3, in voting against

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# MINUTES

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the application, stated that witnesses saw foundations being poured after the Rezoning Date; and

WHEREAS, the Board accepts the testimony of the Community Board and others in the community that certain work on the walls was performed after the effective time of the rezoning; and

WHEREAS accordingly, the Board will not consider the concrete poured for the foundation walls in its analysis of whether substantial progress has been achieved; and

WHEREAS, in support of the claim that substantial progress had been made on foundations as of the Rezoning Date, the applicant has submitted, among other items, photographs taken on August 13, 2004, by the Department of Buildings at the time the "stop work" order was issued, reflecting that the footings were complete;

WHEREAS, at the request of the Board, the applicant has provided a letter from the Department of Buildings confirming that the photos submitted were in fact taken by the Department of Buildings; and

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

WHEREAS, the Board has reviewed the photos and the affidavit, and agree that they support the conclusion that excavation and the pouring of the footings were complete as of August 12, 2004; and

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$11,120 of the \$17,320 (or 64 percent) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and the walls, and excluding tree removal costs, excavation costs, other PREMISES AFFECTED - 32 Bedford Avenue, south side, 515.07' west of 12th Avenue, Block 16350, Part of Lot 300, Borough of Queens.

## COMMUNITY BOARD #14Q

### APPEARANCES -

For Applicant: John Ronan.

**ACTION OF THE BOARD** - Application granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

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

### THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated January 26, 2005 acting on Department of Buildings Application No. 402077569, reads:

1. Proposal to enlarge the existing second

soft costs associated with development on the site had been incurred as of the Rezoning Date; and

WHEREAS, the Board notes that costs associated with pouring the concrete for the walls are not included in the \$11,120 figure; and

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

WHEREAS, additionally, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

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

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

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

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## 23-05-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc., owner; Richard & Josephine O'Connor.

SUBJECT - Application February 8, 2005 - Proposed enlargement to an existing one family dwelling, located within the bed of a mapped street and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

floor on a home which lies within an R4district is contrary to Article 3, Section 36 (2) of the General City Law (GCL ) in that the home does not front on a mapped street (Bedford Avenue); contrary to Art 3, Section 35 of the GCL in that the property also lies within the bed of a street which is mapped (Beach 204<sup>th</sup> Street) and contrary to Section 27-291 of the NYC Building Code and must , therefore , be referred back to the Board of Standards and Appeals for approval .

WHEREAS, a public hearing was held on this application on May 24, 2005 after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

WHEREAS, by letter dated February 18, 2005 , the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 5, 2005 the Department of Environmental Protection has reviewed the above project and has no objections; and

# MINUTES

WHEREAS, by letter dated April 5, 2005, the Department of Transportation has reviewed the above project and has no objections; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated January 26, 2005, acting on Department of Buildings Application No. 402077569 is modified under the power vested in the Board by Sections 35 & 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received May 19, 2005" - (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 this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

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

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

## 85-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc, owner; Pamela & Bruce Kemmlein, lessees. SUBJECT - Application April 8, 2005 - Proposed reconstruction and enlargement of an existing single family dwelling, not fronting on a legally mapped street, and a

A-2 The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings Policy.; and

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

WHEREAS, by letter dated April 19, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated March 25, 2005, acting on Department of Buildings Application No.

proposal to upgrade the private disposal system located in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings policy.

PREMISES AFFECTED -8 Jamaica Walk, west side, 93.31' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated March 25, 2005, acting on Department of Buildings Application No. 402098779, reads:

A-1 The Street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, Therefore:

- A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
- B) Existing dwelling to be altered does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York.

402098779, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received April 8, 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 this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT the Department of Buildings must ensure

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# MINUTES

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

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

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*Pasquale Pacifico, Executive Director.*

Adjourned: 10:25 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, JUNE 7, 2005  
2:00 P.M.**

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

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**ZONING CALENDAR**

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed alteration of a single-family dwelling (Use Group 2) located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, open space, open space ratio and side yards, contrary to Z.R. §23-146; and

WHEREAS, Community Board No. 12, Brooklyn, and Council Member Felder recommend approval of this application; and

WHEREAS, the site is located on 17<sup>th</sup> Avenue at the corner of 17<sup>th</sup> Avenue and 58<sup>th</sup> Street, and the lot area is 2,337.87 sq. ft; and

WHEREAS, the site is 92 ft., 10 in. in length and 25 ft. in width; and

WHEREAS, the subject premises is currently improved upon with a one-story, single-family,

**20-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Marcia Dachs, owner.  
SUBJECT - Application February 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a single family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for side yards, floor area ratio, open space ratio and open space, is contrary to Z.R. §23-141(a), §23-45 and §23-461.

PREMISES AFFECTED - 5723 17<sup>th</sup> Avenue, corner of 58<sup>th</sup> Street, Block 5498, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

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

**THE RESOLUTION** -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 27, 2004, acting on Application No. 301550774, reads:

“The proposed enlargement of existing home is contrary to ZR Section 23-146(a) (Lot coverage, open space, open space ratio) and 23-146(d) (Side yards);” and

WHEREAS, a public hearing was held on this application on January 25, 2005 after due notice by publication in *The City Record*, with a continued hearing on March 1, 2005, May 10, 2005, and then to June 7, 2005 for decision; and

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

“bungalow”-type dwelling, containing 936.77 sq. ft. of floor area; and

WHEREAS, the subject application seeks to alter the existing building to construct a 3,514 sq. ft. one-story plus attic, one-family dwelling; the total allowable residential floor area is approximately 3,858 sq. ft.; and

WHEREAS, the premises is located in an area where the bulk provisions of Z.R. § 23-146 are applicable; and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio (“OSR”) from 59.9 to 25; the minimum OSR required is 45; and

WHEREAS, the proposed enlargement will increase lot coverage from 40.1% to 75%; the maximum lot coverage permitted is 55%; and

WHEREAS, the side yard extensions will decrease

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# MINUTES

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one side yard from 4.39 ft. to 2.5 ft. and decrease the other side yard from 38.83 ft to 0; the required side yards are 4 ft.; and

WHEREAS, the front yards will remain at 7.77 ft. along 17<sup>th</sup> Avenue and .85 ft along 58<sup>th</sup> Street; these are pre-existing non-compliances; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in compliance with underlying district regulations: (1) the site is small and narrow, and (2) the current dwelling occupying the site is obsolete; and

WHEREAS, the applicant represents that the current dwelling was constructed in 1915, and has a floor area ratio (F.A.R.) of .40, well below the permitted 1.65 F.A.R.; and

WHEREAS, the applicant further represents that the home was constructed in a "bungalow" style, and contains one bedroom, a study, a living room, a kitchen and one bathroom; and such space is too small for a family; and

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

WHEREAS, the survey shows that the subject building is the only bungalow-type structure in the surrounding area, with the exception of one other building; and

WHEREAS, at the request of the Board, the applicant has submitted a plan for an as-of-right building; such plan reflects that an as-of-right building should the bungalow be removed/demolished would not be feasible as the width of the building would be only 12 ft., 2 in.; and

WHEREAS, also at the request of the Board, the applicant has also submitted a plan for a building with complying side yards; such plan reflects that having a dwelling with complying side yards would not be feasible as the width of the building would only be approximately 17 ft.; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions, namely the narrowness and small size of the subject lot and the obsolescence of the building, create a practical difficulty in developing the site in compliance with the current

THAT there shall be no habitable space in the attic or the cellar;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

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

zoning; and

WHEREAS, 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 applicable zoning requirements will result in a building that would be habitable or feasible; and

WHEREAS, the applicant has submitted a radius map and photos of the blocks immediately surrounding the premises that indicate that the bulk of the subject proposal would be compatible with the surrounding residential buildings as most of the surrounding buildings also have non-compliances with respect to front yards and side yards; and

WHEREAS, the property immediately adjacent to the premises is a three-story building; 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, at the request of the Board, the applicant has lowered the attic ceiling height, reduced the total proposed height of the building, and increased one of the side yards; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13, §§5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed construction of a single-family dwelling (Use Group 2) located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, open space, open space ratio and side yards, contrary to Z.R. §23-146, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 23, 2005"-(9) sheets and "June 2, 2005"-(2) sheets; and on further condition;

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.

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# MINUTES

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

**127-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Abraham Leser, owner; Absolute Power and Fitness, lessee.

SUBJECT - Application March 10, 2004 - under Z.R. §73-36 the legalization of an existing physical culture establishment, located on the fourth floor of a four story building, situated in a C4-3 zoning district.

PREMISES AFFECTED - 5313/23 Fifth Avenue, between 53rd and 54th Streets, Block 816, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

APPEARANCES -

For Applicant: Eric Palatnik

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

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

**THE RESOLUTION** -

WHEREAS, the decision of the Brooklyn Borough Commissioner dated February 26, 2004, acting on Department of Buildings Application No. 301366590, reads:

“Legalization of existing Physical Culture Establishment requires BSA approval as per ZR 73-36”; and

WHEREAS, a public hearing was held on this application on May 10, 2005 after due notice by publication in *The City Record*, and then to decision on June 7, 2005; and

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

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C4-3 zoning district, a Physical Culture Establishment (“PCE”) on the fourth floor of an existing four-story commercial building; and

WHEREAS, the site was previously the subject of a

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

BSA variance granted under Calendar No. 249-25-BZ, which permitted the erection of a commercial building that was partially within a residence district; and

WHEREAS, the site is currently occupied by a four-story commercial building; and

WHEREAS, the PCE occupies approximately 9,830 square feet of floor area on the fourth floor of the building; and

WHEREAS, the PCE has been in operation since August of 2002; and

WHEREAS, the applicant states that the PCE has facilities for classes, instruction and programs for physical improvement, bodybuilding, weight reduction, martial arts and/or aerobics; and

WHEREAS, the hours of operation are as follow: 5 AM to 12 PM Monday through Thursday, 5 AM to 10 PM on Friday, and 8 AM to 8 PM on Saturday and Sunday; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not have any significant impact on the adjacent residential 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 Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use 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. §§ 73-36 and 73-03; 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-142K, dated August 9, 2004 ; and Impacts; and Public Health; 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 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No.

# MINUTES

91 of 1977, as amended, and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-03, to permit, within a C4-3 zoning district, a Physical Culture Establishment on the fourth floor of an existing four-story commercial building; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 23, 2005"-(1) sheets; and *on further condition*:

THAT this grant shall be limited to a term of eight years from June 7, 2005, expiring June 7, 2013;

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

THAT the hours of operation shall be limited to: 5 AM to 12 PM Monday through Thursday, 5 AM to 10 PM on Friday, and 8 AM to 8 PM on Saturday and Sunday;

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

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

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

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

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

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

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

## 187-04-BZ

APPLICANT - Eric Palatnik, P.C., for 182 MXB, LLC owner.

SUBJECT - Application May 4, 2004 - under Z.R. §72-21 to permit the proposed construction of a four story building, with eight dwelling units, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for lot coverage, floor area, front yards, parking, height and perimeter wall, also the number of dwelling units, is contrary to Z.R. §23-141(c), §23-631(e), §23-45(a), §25-23(a) and §23-22.

PREMISES AFFECTED - 182 Malcolm X Boulevard, north west corner of Madison Street, Block 1642, Lot 48, Borough

WHEREAS, the applicant proposes to construct a four-story, 44 ft. high building, with approximately 8,904 sq. ft. of floor area (a Floor Area Ratio of 2.95), six dwelling units, open space of 657 sq. ft., a setback of 11 ft., 2 inches on the Madison Street side of the site, and no parking; and

of Brooklyn.

## COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 14, 2004, acting on Department of Buildings Application No. 301663313, reads, in pertinent part:

"Proposed building is contrary to ZR 23-141(c), ZR 23-631(e), ZR 23-22, ZR 23-45(a\*\*) and ZR 25-23(a) and therefore must be referred to the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on February 15, 2005 after due notice by publication in the *City Record*, with continued hearings on March 29, 2005, May 10, 2005, and then to decision on June 7, 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 3, Brooklyn, recommends disapproval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a R5 zoning district, the proposed development of a four-story residential building, which does not comply with the zoning regulations for lot coverage, floor area, front yards, parking, height, and amount of dwelling units, contrary to Z.R. §§ 23-141(c), 23-631(e), 23-22, 23-45(a\*\*) and 25-23(a); and

WHEREAS, the premises is 25' X 100' corner lot, located on the northwest corner of Malcom X Boulevard and Madison Street; the total lot area is approximately 2,500 sq. ft.; and

WHEREAS, the site is currently improved upon with a 1 story-garage structure on a portion of the lot, which will be demolished; and

WHEREAS, the site was formerly developed with a three-story mixed-use building, with residential use on the second and third floors and commercial use on the first floor; and

WHEREAS, the original proposal contemplated a four-story building with an F.A.R. of 3.56, eight dwelling units, open space of 235 sq. ft., and no setback; and

WHEREAS, the proposed development triggers the following waiver requests: (1) an F.A.R. of 2.95 (1.65 is the maximum permitted); (2) an open space ratio of 9

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# MINUTES

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percent (45 percent is the minimum required); (3) lot coverage of 45 percent (55 percent is the maximum permitted); (4) a perimeter wall height of 44 ft. (30 ft. is the maximum permitted); (5) a total height of 44 ft. (33 ft. is the maximum permitted); (6) eight dwelling units (4.58 is the maximum permitted); (7) no front yard (18 ft. is the minimum required); and (8) no parking (six spaces is the minimum required); and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: the site is narrow and small corner lot, with a 25 ft. width; and

WHEREAS, the applicant states that the narrow width of the lot, when considered in conjunction with the yard requirements for a corner lot, makes it difficult to create a complying building that would be marketable and therefore feasible; and

WHEREAS, specifically, the applicant has submitted a plot plan that shows that a complying building would have three stories and a width of only 15 ft., and be incapable of realizing a reasonable return; and

WHEREAS, the Board notes that a complying development would result in an inefficient floor plate for a multiple dwelling, in that due to core and egress path requirements, not enough rentable floor area would be created; and

WHEREAS, the additional F.A.R. requested acts as compensation for this site-related inefficiency, and also results in a building that is compatible with the surrounding area; and

WHEREAS, the applicant conducted a survey of the area and the subject zoning district that revealed that although there were some lots of comparable size to the subject site, they were all developed; and

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

WHEREAS, the applicant submitted an initial feasibility study that analyzed a fully complying building and well as the above-mentioned original proposal; and

WHEREAS, at the request of the Board, the applicant updated the feasibility study to analyze the current proposal; and

WHEREAS, the Board has reviewed the revised feasibility study, and finds it credible and sufficient; 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 also submitted a supplemental letter from a financial consultant which

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

WHEREAS, the applicant has provided a color-coded map, which demonstrates that the proposed height of the building is comparable to that of other buildings in the area; and

WHEREAS, specifically, there are four-story buildings directly adjacent to, across the street from, and diagonally across the street from, the subject site; and

WHEREAS, in fact, the Board notes that the surrounding area, including along Malcom X Boulevard, is characterized by lawful, non-complying three-to-four story buildings with full lot coverage; and

WHEREAS, additionally, the applicant provided another color-coded map, which demonstrates that these same buildings have lot coverage and floor area comparable to the proposed building; and

WHEREAS, the applicant also submitted an elevation showing the relationship of the proposed building's envelope to the existing buildings; the Board reviewed these elevations and agrees that the proposed building's envelope is compatible with the existing adjacent residences and other buildings; and

WHEREAS, the applicant also conducted an informal parking survey of the area, and noted the existence of numerous on-street parking spaces; and

WHEREAS, the Board confirmed the existence of sufficient on-street parking on its site visit; and

WHEREAS, at the request of the Board, the applicant increased the amount of open space on the site and created a setback on the Madison Street side of the proposed building; and

WHEREAS, the Board finds that these modifications lead to an improved development proposal; 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 2.46 F.A.R., three-story, six unit development scenario; and

WHEREAS, the applicant reviewed such a scenario and concluded that it was not viable because it reduced the size of the apartment units to an unmarketable size with undesirable layouts; and

confirmed this conclusion, and stated that such a scenario would result in a negative return; and

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# MINUTES

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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 Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-191K, dated May 4, 2005; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type I Negative Declaration, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within a R5 zoning district, the proposed development of a four-story residential building, which does not comply with the zoning regulations for lot coverage, floor area, front yards, parking, height, and amount of dwelling units, contrary to Z.R. §§ 23-141(c), 23-631(e), 23-22, 23-45(a\*\*) and 25-23(a); *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 4, 2005"– (7) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as follows: (1) a street wall height of 41 ft., 8 inch.; (2) a total height of 41 ft., 8 inch.; and (3) a 10 ft. front yard;

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

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

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

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

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## 252-04-BZ

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig, LLP, for MKD Group, LLC, owner.

SUBJECT - Application July 15, 2004 - under Z.R. §72-21 to permit the conversion and enlargement of an existing two-story, vacant industrial building in an M1-2 zoning district contrary to Z.R. §42-10.

PREMISES AFFECTED - 170 North 11<sup>th</sup> Street, south side of North 11<sup>th</sup> Street between Bedford Avenue and Driggs Avenue, Block 2298, Lot 9, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application withdrawn.

**THE VOTE TO WITHDRAW** -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

Negative:.....

.....0

Absent: Vice-Chair

Babbar.....1

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

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## 297-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Arthur Djmal, owner.

SUBJECT - Application January 18, 2005 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirement for floor area ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 1174 East 22<sup>nd</sup> Street, southwest corner of Avenue "K", Block 7621, Lot 47, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Sheldon Lobel.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....

.....0

Absent: Vice-Chair

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Babbar.....1

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 14, 2005, acting on Department of Buildings Application No. 301825755, reads:

“The proposed enlargement of existing one family residence in R2 zoning district:

1. Causes an increase in floor area exceeding the allowable floor area and is contrary to the allowable floor area ratio allowed by Sect. 23-141 of the Zoning Resolution.
2. Creates non-compliance with respect to open space ratio and is contrary to Sect. 23-141 of the Zoning Resolution.”; and

WHEREAS a public hearing was held on this application on March 15, 2005 after due notice by publication in *The City Record*, with a continued hearing on April 19, 2005, May 17, 2005 and then to decision on June 7, 2005; and

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

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

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

WHEREAS, the subject lot is located on the southwest corner of East 22nd Street and Avenue K, and has a total lot area of approximately 5,000 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 states that the subject premises is improved upon with an existing two-story plus attic residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 3,121 sq. ft. (0.63 Floor Area Ratio or “FAR”) to 4,998 sq. ft. (0.99 FAR); the maximum floor area permitted is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio (“OSR”) from 140 to 115; the minimum OSR required is 150; and

WHEREAS, initially, the applicant proposed removing all of the existing walls, and then rebuilding; and

WHEREAS, in order to comply with the definition of “enlargement,” pursuant to Section 12-10 of the Zoning Resolution, as articulated by the Board, the applicant has revised its proposal to retain the entire western wall of the existing structure, the first floor and portions of the second floor; and

WHEREAS, the Board finds that the proposed

## THE RESOLUTION -

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

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

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use 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 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling (Use Group 1), which does not comply with the zoning requirements for floor area and open space ratio, contrary to Z.R. § 23-141(a); *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 May 24, 2005”- (9) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

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

THAT the entire western wall and first floor of the existing building, and portions of the second floor of the existing building to be determined by DOB, shall be retained;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 0.99;

THAT the total attic floor area shall not exceed 870 sq. ft.;

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

THAT the existing garage shall remain one car accessory parking;

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

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

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

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

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# MINUTES

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SUBJECT - Application October 4, 2004 - under Z.R. §72-21 to request a variance from the following sections of the Zoning Resolution: 24-11 (floor area ratio); 24-34 (front yard requirements); and 24-521 (height and setback regulations). The proposal calls for the enlargement of an existing Community Facility.

PREMISES AFFECTED - 66-35 108<sup>th</sup> Street, between 66<sup>th</sup> Road and 67<sup>th</sup> Avenue, Block 2175, Lot 1, Borough of Queens.

## COMMUNITY BOARD #6Q

### APPEARANCES -

For Applicant: Sheldon Lobel.

**ACTION OF THE BOARD** - Application granted upon condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

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

### THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 2, 2005, acting on Department of Buildings Application No. 401995828, reads, in pertinent part:

1. Proposed floor area exceeds the maximum permitted for an R1-2 zoning district as per Sec. 24-11, thereby increasing the degree of non-compliance in violation of ZR Sec. 54-31.
2. Propose front yard along 66<sup>th</sup> Road does not comply with the minimum 20 foot front yard requirements pursuant to ZR Sec. 24-34.
3. Proposed height of building along 66<sup>th</sup> Road and 108<sup>th</sup> Street penetrates the sky exposure plane and does not comply with ZR Sec. 24-521
4. Proposed setback of building above 35 feet along the side lot line does not comply with ZR Sec. 24-551"; and

WHEREAS, a public hearing was held on this application on April 12, 2005, after due notice by publication in The City Record, with a continued hearing on May 17, 2005, and then to decision on June 7, 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 R-12 zoning district, the proposed enlargement of a building occupied by both a synagogue and a religious school, which does not comply with the zoning regulations governing floor area, lot coverage, front yard, and height and setback, contrary to Z.R. §§24-11, 24-34, 24-521 and 24-551; and

## 327-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Beth Gavriel Bukharian Congregation, owner.

WHEREAS, this application is brought on behalf of Beth Gavriel Bukharian Congregation, a not-for-profit entity (hereinafter, the "Synagogue"); and

WHEREAS, both the Queens Borough President and Community Board 6, Queens, recommend approval of this application; and

WHEREAS, certain neighbors of the subject building appeared in opposition to this application, contending that the bulk of the proposed building was too large and would block their views; and

WHEREAS, the subject site is a rectangular shaped 20,000 sq. ft. lot located at the west end of the subject residential block, and is currently improved upon with a three-story 19,760 sq. ft. building occupied by the Synagogue in primarily the southern portion of the building, and a school for boys primarily in the northern portion (hereinafter, the "School"); and

WHEREAS, the applicant originally proposed to construct an enlargement to the School portion of the building on the northern side, in order to accommodate the growing enrollment and resulting space needs; and

WHEREAS, however, the proposal was modified such that the enlargement will take place on the southern side of the building; and

WHEREAS, the Synagogue will be relocated to the north side of the building on the basement and first floors so that it is perpendicular to the space it formerly occupied, which, in turn, will be converted to an auditorium/lunchroom for the school;

WHEREAS, also in the basement, parts of the new enlarged area along the north side will be used for new offices and a coatroom; and

WHEREAS, on the first floor, the new enlarged area on the north side will be part of the Synagogue, with accessory storage and a coatroom; the former study hall on the south side will be converted to new classrooms; and

WHEREAS, on the second floor, two new classrooms will be added on the south side, with some space devoted to storage and offices; the new enlarged area on the north side will be occupied by a study hall, a larger library and a teachers' room; and

WHEREAS, the applicant also represents that at both first and second floors, new toilet rooms and new ADA toilet rooms will be added in the new north portion; also, a new elevator and egress stair will be provided; and

WHEREAS, also, a gymnasium is proposed for the cellar; and

WHEREAS, construction of the enlargement as currently proposed will result in the following non-compliances: community facility F.A.R. of 1.39 (27,820 sq. ft. of floor area); (0.5 F.A.R., or 10,000 sq. ft. is the maximum permitted); a wall and total height of 33 ft., 2 inches (25 ft. is the maximum permitted); one non-complying front yard of 10 ft. on the east side at the basement level (a 20 ft. front yard is the minimum required); an eight ft. setback (21 ft. is the

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# MINUTES

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minimum required); 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: the existing building has insufficient space to accommodate the increased enrollment of the School, while still providing appropriate space for the Synagogue; and

WHEREAS, the applicant states that the following are the programmatic needs of the School: (1) creation of a lunchroom, so that the Synagogue space need not be utilized for this purpose; (2) creation of resource room, so that the existing science lab need not be utilized for this purpose; (3) expansion of the very small science lab; (4) creation of a computer lab; (5) creation of a library of sufficient size to accommodate the current enrollment and book collection; (6) sufficient office space for the executive staff; (7) creation of a gymnasium; (8) additional classrooms; and (7) proper storage areas for books, school supplies and food containers, which are currently stored in makeshift areas within the building; and

WHEREAS, the Board, while recognizing the programmatic needs of the School, asked the applicant to consider reducing the width of the new Synagogue space, so that it could accommodate a complying setback; and

WHEREAS, the applicant responded that this would decrease the amount of seating available in the Synagogue space; and

WHEREAS, the Board also suggested that the applicant revert back to its original plan to place the lunch room on the north side, which would allow a decrease in the width of the space; and

WHEREAS, the applicant responded that location of the lunchroom on the south side was more practical given that the existing kitchen was also located on this side; and

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

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the School, 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 enlargement will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant notes that there are two other larger community facilities on each of the other corners of 66th Road and 67th Avenue; and

WHEREAS, there are also six-story multiple dwellings across 108th Street; and

WHEREAS, after the proposal was modified, the applicant ascertained that the proposed enlargement triggered a parking requirement; the applicant will now provide six

on-site parking spaces, which complies with this requirement; and

WHEREAS, the applicant also notes that many of the students live in the area and either walk or take school buses to the School, thereby minimizing the need for parking; and

WHEREAS, as noted above, the Board, asked the applicant to consider reducing the width of the new Synagogue space, so that it could accommodate a complying setback ; and

WHEREAS, the applicant replied that even though the setback would not be complying, any visual impact would be minimized because the site is sloped; and

WHEREAS, the proposed hours of operation for the School are as follows: 8 AM - 4:30 PM, Monday through Thursday and 8A.M. - 1:30 PM Friday (Grades K-3, K-4); 9AM-12PM Sunday, 8AM - 4:30 PM Monday Through Thursday and 8AM-1:30PM Friday (Grades Pre-1A, 1-8); and 4:30 PM - 6PM Monday through Thursday (After School Program); and

WHEREAS, the proposed hours of operation for the Synagogue are as follows:8 AM-12PM and 6 PM - 7:30 PM Saturday; 7 AM - 8 AM, 6PM - 7PM, and 8PM - 10 PM Sunday through Thursday; and 7 AM - 8 AM and 6 PM - 7 PM Friday; and

WHEREAS, the applicant represents that no increase in the amount of functions is proposed; and

WHEREAS, the applicant represents that the proposed hours of operation and amount of functions will not negatively affect 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. 05-BSA-047Q dated October 4, 2004; and

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

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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 R-12 zoning district, the proposed enlargement of a building occupied by both a synagogue and a religious school, which does not comply with the zoning regulations governing floor area, lot coverage, front yard, and height and setback, contrary to Z.R. §§24-11, 24-34, 24-521 and 24-551; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 3, 2005"-(8) sheets; and on further condition:

THAT there shall be no commercial catering on the site;

THAT the above condition shall listed on the certificate of occupancy

THAT the bulk parameters of the proposed building, including the dimensions of the interior spaces, shall be as reflected on the BSA-approved plans;

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

THAT all exiting will be as approved by the Department of Buildings;

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

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

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

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

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## 345-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Yad Yosef, owner.

SUBJECT - Application October 22, 2004 - under Z.R. §72-21 to request a bulk variance to allow the construction of a new synagogue in an R5 district contrary to Z.R. §§23-141, 23-464, 23-47, 113-12, 23-631(d), 113-30, 25-18 and 25-31.

PREMISES AFFECTED - 1030-1044 Ocean Parkway, west

side, between Avenues "J and L", Block 5495, Lots 909, 911 and 914, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

### APPEARANCES -

For Applicant: Lyra Altman, Fredrick A. Becker.

**ACTION OF THE BOARD** - Application granted upon condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

### THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 18, 2005, acting on Department of Buildings Application No. 301759372, reads, in pertinent part:

- "1. Proposed plans are contrary to ZR 23-141 in that the proposed open space is less than the minimum required.
2. Proposed plans are contrary to ZR 23-141 in that the proposed lot coverage is greater than the maximum permitted.
3. Proposed plans are contrary to ZR 23-464 in that the proposed side yards are less than the minimum required.
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required rear yard.
5. Proposed plans are contrary to ZR 23-631(d) in that the proposed wall height is greater than the maximum allowed wall height.
6. Proposed plans are contrary to ZR 23-631(d) in that the proposed front wall encroaches into the required sky exposure plane.
7. Proposed plans are contrary to ZR 113-30 in that the front yard is not fully landscaped.
8. Proposed plans are contrary to ZR 25-18 and ZR 25-31 in that the proposed number of parking spaces is less than the minimum required number of parking spaces."; and

WHEREAS, a public hearing was held on this application on March 1, 2005, after due notice by publication in *The City Record*, with a continued hearing on May 17, 2005, and then to decision on June 7, 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 Commissioner Miele; and

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

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# MINUTES

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21, to permit, within an R5 zoning district, the proposed construction of a new synagogue, contrary to Z.R. §§

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

WHEREAS, Community Board 12, Brooklyn, recommends approval of this application with certain conditions as stated in their recommendation report, as discussed further below; and

WHEREAS, certain members of the community apart from the Community Board spoke at the hearing with respect to this proposal and voiced concerns about increased traffic in the area, potential catering on the premises, the bulk of the building, including the rear yard encroachment, and potential noise issues; certain of these concerns are addressed below; and

WHEREAS, the subject site is currently improved upon with a two-story synagogue, occupied by the congregation since 1998, and a three-story plus cellar medical facility; and

WHEREAS, the three lots combined have a total lot area of 21,000 sq. ft.; and

WHEREAS, the applicant proposes to construct a 23,228.52 sq. ft. new synagogue in order to accommodate the growing size of the congregation and meet the current needs of the congregation; and

WHEREAS, construction of the addition as currently proposed will result in the following non-compliances: side yards of 8 ft. and 9 ft. (two 18 ft., 5 3/8 in. side yards are required); no rear yard (one 30 ft. rear yard is required); open space of 6,929.37 (open space of 10,452.83 minimum required); open space ratio of 30% (open space ratio of 45% minimum required); wall height of 35 ft. (wall height of 30 ft. maximum permitted); lot coverage of 67% (lot coverage of 55% maximum permitted); no sky exposure plane; and no parking spaces; 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: the existing building has insufficient space to accommodate the increased enrollment of the Synagogue while still providing separate praying areas for men and women; and the proposed building, which contemplates a floor area ratio below the floor area ratio permitted by the zoning resolution, could not be built in compliance with the existing rear yard, side yard or height requirements while still fulfilling the basic programmatic needs of the congregation, including, among other things, separate praying areas for men and women; and

WHEREAS, the applicant states that the following are the programmatic needs of the Synagogue, which has been driven by an increase in congregation size since 1993 to its present size of 100 families: (1) more worship space than is currently provided, to reduce overcrowded conditions; (2) a private office for the

23-141, 23-464, 23-47, 23-631(d), 113-30, 25-18 and 25-31; and

rabbi; (3) offices for the personnel of the congregation; (4) adequate bathrooms; (5) handicap accessibility; (6) a multi-purpose room for gatherings on the Sabbath and bar and bat mitzvahs; and (7) space for the women's center, the rabbinical seminary and the youth program; and

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

WHEREAS, the Board also notes that the building cannot be pushed forward, away from the neighbors in the rear, due to a deed restriction that requires a 30 ft. front yard; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the Synagogue, 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 enlargement will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant represents that the proposed building was designed to only address the programmatic needs of the Synagogue; and

WHEREAS, the Community Board has requested that the applicant set back the second floor mezzanine 8 ft. in the rear, and ensure that the windows in the rear of the synagogue will be located one-third from the top of the building to obscure any view into the adjacent neighbors' yards; and

WHEREAS, in response to the concerns of the Board, the Community Board and other community members about the bulk of the building, the applicant has modified its proposal to provide: an extension of 8 ft. side yard and 9 ft. side yard to the rear lot line; translucent windows in the back of the building; a refuse room in the cellar; a lesser encroachment in the rear yard through the elimination of the rear mezzanine (reduction from 27 ft to 16 ft.); re-location of the mechanicals from the rear mezzanine to the roof; replacement of originally proposed brick and block parapet on rear lot line with an open metal railing parapet; and a limitation on the use of outdoor space in the back of the building to the eight days of Succoth; and

WHEREAS, the Board asked the applicant to discuss whether there would be adequate parking available for the congregants; and

WHEREAS, in response, the applicant represents

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# MINUTES

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that more than 75% of the members of the congregation live within three-quarters of a mile of the Synagogue,

WHEREAS, in addition, the applicant submitted a parking study that surveyed an area within a 600 ft. radius of the site during a weekday; such survey indicates that the proposed new building will not have any adverse parking impacts on weekdays because the only scheduled weekday activity is a woman's Bible study class for 20-70 women that meets between the hours of 11AM-2PM, and at such time there are well over 100 available on-street parking spaces in the surveyed area; and

WHEREAS, the Board received two letters from certain members of the community dated May 24, 2005 that addressed, among other things, potential impacts from catering on the site and issues that may arise from the expansion of the congregation of the Synagogue; and

WHEREAS, in response, the applicant submitted a letter dated June 3, 2005, in which the applicant stated that: it is not intending to use the multi-purpose room of the Synagogue as a commercial catering facility; the proposed synagogue addresses the programmatic needs of the existing congregation and not those of a larger congregation; and although the applicant considered building a third floor instead of encroaching into the rear yard, such change would not meet the programmatic needs of the congregation; and

WHEREAS, with respect to the catering issue, the Board is conditioning the grant on the prohibition of commercial catering on site; and with respect to comments about the expansion of the congregation, the Board notes that the applicant has represented that the proposal addresses current needs of the congregation and not future needs; 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. 05-BSA-054K dated February 8, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic

and that during peak Synagogue hours (i.e., on the Sabbath), members walk to the Synagogue; and 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, a Parking Survey was conducted by the Applicant's Consultant on March 24, 2005 to document available on-street parking spaces within a 600 foot radius of the subject site; the conclusion of this survey was that no adverse parking impacts are anticipated due to the subject proposal; 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, the proposed construction of a new synagogue, contrary to Z.R. §§ 23-141, 23-464, 23-47, 23-631(d), 113-30, 25-18 and 25-31; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 23, 2005" – (7) sheets and "Received May 25, 2005" – (3) sheets; and *on further condition*:

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

THAT there shall be no commercial catering on the site;

THAT use of the rear terrace above the first floor shall be limited to the eight days of Succoth;

THAT all rear lot line windows shall be combination fixed and project-in (hoppers swinging in) with obscure glazing, as indicated on the BSA-approved plans;

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

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

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.

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# MINUTES

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

**354-04-BZ**

APPLICANT - Friedman & Gotbaum by Shelly S. Friedman,

**COMMUNITY BOARD #2M**

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

.....0

Absent: Vice-Chair

Babbar.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated October 27, 2004, acting on Department of Buildings Application No. 102045396, reads:

“Proposed use group two is not permitted as of right in a manufacturing district. This is contrary to section 42-10 ZR.”; and

WHEREAS, a public hearing was held on this application on May 10, 2005 after due notice by publication in the *City Record*, and then to decision on June 7, 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 M1-5 zoning district, the conversion of a two-story building with two mezzanines from artist’s studio to single family residence, contrary to Z.R. § 42-10; and WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Greenwich Street south of Barrow Street, with a total lot area of 2,837.6 sq. ft., and is improved upon with an existing four-story building; and

WHEREAS, the lot has a frontage on Greenwich Street of approximately 25 ft., and a depth of 112 ft. on the northern lot line and 114 ft. on the southern lot line; and

WHEREAS, the applicant represents that the building has been used since 1971 as the owner’s art studio and residence; and

WHEREAS, the applicant states that previously the existing building was occupied by the Metropolitan

Esq.,, for Greenwich Tower LLC, owner.

SUBJECT - Application November 8, 2004 - under Z.R. §72-21 to permit the proposed conversion of an existing two-story building, from artist’s studio to a single family residence, located in an M1-5 zoning district, is contrary to Z.R. §42-10. PREMISES AFFECTED - 637 Greenwich Street, east side, 75.3’ south of Barrow Street, Block 603, Lot 51, Borough of Manhattan.

Opera and used to house large-scale scene paintings; as a result, the building was fitted with high ceilings and a split-floor interior configuration to accommodate such paintings; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the existing building has narrow and irregularly shaped floors resulting in small floor plates; (2) the building lacks elevator service and other modern commercial amenities; and (3) the building has excessive ceiling heights and mezzanines on both the first and second floors; and

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

WHEREAS, the applicant submitted a feasibility study that analyzed a conforming “as-is” industrial use at a 2.77 F.A.R., a renovated conforming industrial use at a 5.0 F.A.R., and a renovated conforming commercial office use at a 5.0 F.A.R.; and

WHEREAS, the feasibility study demonstrates that a conforming manufacturing or commercial use would not yield a reasonable return because the existing building’s inherent functional obsolescence is not conducive to commercial or manufacturing uses, and a newly constructed commercial or manufacturing use has an insufficient floor plate because of the small lot size; and

WHEREAS, therefore, the Board has determined that because of the subject lot’s unique physical conditions, namely the small floor plates, the excessively high ceilings and the lack of commercial amenities including an elevator, there is no reasonable possibility that development in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood; and

WHEREAS, the applicant states that the buildings surrounding the property are mixed-use, and that residential lofts are found in within the site’s 400 ft. radius, along with tenement walk-ups, community facilities and parking garages; and

WHEREAS, the applicant states that, specifically, the property to the north of the site is a parking lot, and

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# MINUTES

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the L-shaped lot to the east and south of the site and the lot to the west of the site are community facilities; and

WHEREAS, the Board has conducted a site visit and concludes that residential use of the site is appropriate given the predominance of residential use in the immediate area; 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

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; and Public Health; 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 each and every one of the required findings under Z.R. § 72-21 and grants a variance to permit, within an M1-5 zoning district, the conversion of an two-story building from artist's studio to single family residence, contrary to Z.R. § 42-10; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 24, 2005" - (7) sheets; and on further condition:

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

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

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

THAT the Department of Buildings must ensure 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.

in title; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-190M dated February 3, 2004; and

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

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## 356-04-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for RFD 55th Street, LLC, owner; The Core Club 55th Street, LLC, lessee.

SUBJECT - Application November 16, 2004 - under Z.R. §73-36 approval sought for a proposed physical cultural establishment to be located on a portion of the cellar and first floor, entire third, fourth and sixth floor levels of a 41 story mixed use building currently under construction. The proposed PCE use will contain 19, 249 gross square feet. The site is located in a C5-2.5 Special Midtown District.

PREMISES AFFECTED - 60 East 55<sup>th</sup> Street, south mid block, East 55<sup>th</sup> Street, block bounded by Park and Madison Avenues and East 54<sup>th</sup> and East 55<sup>th</sup> Streets, Block1290, Lot # 45, Borough of Manhattan.

## COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: James P. Power.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

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

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner dated October 18, 2004, acting on Department of Buildings Application No. 103319491, reads:

"Proposed use is a physical culture establishment, which requires a special permit from the Board of Standards and Appeals pursuant to Zoning Resolution Section 73-36."

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by

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# MINUTES

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publication in *The City Record*, and then to decision on June 7, 2005; and

WHEREAS, Community Board No. 5, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 73-36 and 73-03, to permit, within the C5-2.5/C5-3 zoning district in the Special Midtown District, a physical culture establishment ("PCE") to be located in a portion of the cellar and first floor, and the entire third, fourth and sixth floors of a 41-story mixed use building currently under construction; and

WHEREAS, the PCE will occupy approximately 19,249 gross square feet of the building; and

WHEREAS, the first floor of the building will be occupied by a retail use and the remaining floors will be occupied by a residential use; and

WHEREAS, the applicant states that the PCE will include a gym that will have facilities for classes,

WHEREAS, the area where the PCE will be located is predominantly a commercial area with some residential and hotel uses; and

WHEREAS, the PCE will have a separate entrance from the residential use entrance; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not have any significant impact on the residential use in the building or adjacent residential 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 Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use 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. §§ 73-36 and 73-03; 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. 05-BSA-059M, dated February 22, 2005; and

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

instruction and programs for physical improvement, body building, weight reduction and aerobics, and facilities for massage treatments; and

WHEREAS, the applicant states that all masseurs and masseuses employed by the facility will be New York State licensed; the applicant anticipates that there will be 10 massage therapists, but has not hired any therapists at this time; and

WHEREAS, the applicant represents that the PCE will have a 500 sq. ft. outdoor lounge on the roof over the fifth floor; and

WHEREAS, the Board has reviewed the evidence submitted by the applicant related to the outdoor lounge and finds that the applicant meets the requirements of § 73-36(b); and

WHEREAS, the PCE will have hours of operation of 7AM – 11PM daily; and

Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the 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 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-03, to permit, within the C5-2.5/C5-3 zoning district in the Special Midtown District, a physical culture establishment ("PCE") to be located in a portion of the cellar and first floor, and the entire third, fourth and sixth floors of an 41-story mixed use building currently under construction; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 24, 2005 (6) sheets; and *on further condition*: THAT this grant shall be limited to a term of ten years from June 7, 2005, expiring June 7, 2015;

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

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

THAT the hours of operation shall be limited to: Monday through Sunday][7AM] to 11PM;

THAT the above conditions shall appear on the

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# MINUTES

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Certificate of Occupancy;

THAT all signage shall comply with signage regulations applicable in C5-2.5 zoning district in the Special Midtown District;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT a full sprinkler system and a Class C fire alarm system shall be installed throughout the PCE, as indicated on the BSA-approved plans;

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

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

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.

## COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Chris Wright.

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 July 12, 2005, at 1:30 P.M., for decision, hearing closed.

## 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.

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

## 397-03-BZ thru 405-03-BZ

APPLICANT - Sheldon Lobel, P.C., for G & G Associates, owner.

SUBJECT - Application December 29, 2003 - under Z.R. §72-21 to permit the proposed three story (3) plus attic building, to contain three residential units, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED -

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

## 344-03-BZ/345-03-A

APPLICANT - Law Offices of Howard Goldman, LLC, for City of New York, owner; Nick's Lobster House, lessee.

SUBJECT - Application November 13, 2003 - under Z.R. §73-242, to allow a restaurant in a C3 zoning district. The restaurant allows eating and drinking, provides outdoor seating and has a seating capacity of 190 people. There is no dancing or musical entertainment. Under BSA Calendar No. 345-03-A the application seeks an appeal pursuant to Art. III, Sec. 35, of the General City Law to permit construction of commercial facility on the bed of a mapped Street.

PREMISES AFFECTED - 2777 Flatbush Avenue, corner of Mill Basin, Block 8591, Part of Lots 980 and 175, Borough of Brooklyn.

1255 60th Street, between 12th and 13th Avenues, Block 5711, Lot 155, Borough of Brooklyn.

1257 60th Street, between 12th and 13th Avenues, Block 5711, Lot 154, Borough of Brooklyn.

1259 60th Street, between 12th and 13th Avenues, Block 5711, Lot 153, Borough of Brooklyn.

1261 60th Street, between 12th and 13th Avenues, Block 5711, Lot 152, Borough of Brooklyn.

1263 60th Street, between 12th and 13th Avenues, Block 5711, Lot 151, Borough of Brooklyn.

1265 60th Street, between 12th and 13th Avenues, Block 5711, Lot 150, Borough of Brooklyn.

1267 60th Street, between 12th and 13th Avenues, Block 5711, Lot 149, Borough of Brooklyn.

1269 60th Street, between 12th and 13th Avenues, Block 5711, Lot 148, Borough of Brooklyn.

1271 60th Street, between 12th and 13th Avenues, Block 5711, Lot 147, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Jordan Most and Sheldon Lobel.

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

## 3-04-BZ

APPLICANT - Eric Palatnik, P.C., for Rushikesh Trivedi, owner.

SUBJECT - Application January 6, 2004 - under Z.R. §72-21 to permit the proposed dental office, Use Group 6, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, front and side yards and use, which is contrary to Z.R. §24-111, §22-14, §24-34 and §24-35.

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# MINUTES

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PREMISES AFFECTED - 147-08 46<sup>th</sup> Avenue, between Parsons Boulevard and 149<sup>th</sup> Street, Block 5452, Lot 3, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to September 13, 2005, at 1:30 P.M., for continued hearing.

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**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, 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.

PREMISES AFFECTED - 1924 Homecrest Avenue, between Avenues "S and T", Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Eric Palatnik

For Opposition: Antoinette Vasile.

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

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**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 31<sup>st</sup> Drive, East side, between 14<sup>th</sup> and 21<sup>st</sup> Streets, Block 531, Lots 50 and 51, Borough of Queens.

**COMMUNITY BOARD #1Q**

APPEARANCES - None.

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

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**352-04-BZ**

APPLICANT - Eric Palatnik, P.C., for R. Randy Lee, owner.

SUBJECT - Application November 4, 2004 - Under Z.R.§72-21, to modify the previous approval by the BSA (118-01-BZ) by altering the configuration of the subject

**COMMUNITY BOARD #6BK**

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Paulette Rigolli and Roger Rigolli.

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

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**255-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Eli Kafif, owner.

SUBJECT - Application July 15, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, which does not comply with the zoning requirements for floor area and side yard, is contrary to Z.R. §23-141 and §23-461(a), located in an R5 zoning district.

building and to permit a change in use from Use Group 6 office use to Use Group 6 retail use, within an R3-1 Zoning District and to vary Section 22-00 of the Resolution.

PREMISES AFFECTED - 1845 Richmond Avenue, East side of Richmond Avenue, 500 feet south of Eaton Place, Block 2030, Lot 57, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES -

For Applicant: Eric Palatnik and Hiram Rothkrug.

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

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**363-04-BZ**

APPLICANT - Herrick Feinstein, LLP, for 6002 Fort Hamilton Parkway Partners, owners.

SUBJECT - Application November 18, 2004 - under Z.R. §§72-01(b) and 72-21 to permit in an M1-1 district, approval sought to convert an existing industrial building to residential use. The proposed development will contain 115,244 SF of residential space containing 90 dwelling units, as well as 9,630 SF of retail space. There will be 90 parking spaces. The development is contrary to district use regulations per Section 42-00.

PREMISES AFFECTED - 6002 Fort Hamilton Parkway, a/k/a 949/59 61<sup>st</sup> Street, a/k/a 940/66 60<sup>th</sup> Street, south side of 61<sup>st</sup> Street, east side, of Fort Hamilton Parkway and north side of 60<sup>th</sup> Street, Block 5715, Lots 21 and 27, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -

For Applicant: Mitchell Korbey, Steven Steir and Jack Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

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# MINUTES

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

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

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## **402-04-BZ**

APPLICANT - Steven Sinacori/Stadtmauer Bailkin LLP for Knapp Street Entertainment Center Inc., owner; Public Storage Inc., lessee.

SUBJECT - Application December 28, 2004 - under Z.R. §72-21, to permit the change of use from an enclosed amusement arcade (Use Group 15) to self-storage facility (Use Group 16) in an R6 Zoning District and to vary Sections 24-11 (Lot coverage), 24-35(b) (Side yard), and 24-522 (Perimeter wall height, setback, and sky exposure plane) of the Resolution.

PREMISES AFFECTED - 1384 East 24th Street, bounded by Avenue "N", East 23rd Street, Avenue "M" and East 24th Street, Block 7659, Lot 81, Borough of Brooklyn.

### **COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Richard Lobel.

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

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## **405-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Kim Stavrach, owner.

SUBJECT - Application December 30, 2004- under Z.R. §73-622 for an enlargement of a single family residence to vary ZR 23-141 for open space and floor area, ZR 23-461 for side yards and ZR 23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1734 East 27th Street, west side, between Quentin Road and, Avenue "R", Block 6809, Lot 24, Borough of Brooklyn.

### **COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Laid over to August 16, 2005, at 1:30 P.M., for continued hearing.

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*Pasquale Pacifico, Executive Director.*

Adjourned: 4:10 P.M.

PREMISES AFFECTED - 2461 Knapp Street, east side, between Avenue "X and Y", Block 8833, Lot 200, Borough of Brooklyn.

### **COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Steven Sinacori, Lance I. Michaels and Jack Friedman.

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

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## **404-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Sharokh Rambod, owner.

SUBJECT - Application December 30, 2004 - under Z.R. §73-622 Enlargement of a single family residence to vary ZR 23-141 for open space and floor area, ZR 23-461 for side yards and ZR 23-47 for rear yard. The premise is located in an R2 zoning district.