
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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February 24, 2005

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23-05-A B.Q. 32 Bedford Avenue, south side, 515.07' west of 12th Avenue, Block 16350, Part of Lot Lot 300, Borough of Queens. Applic.#402077569. 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.

24-05-BZ B.Q. 97-15 Northern Boulevard, northwest corner of 98th Street, Block 1427, Lot 33, Borough of Queens. N.B.#402069756. Proposed redevelopment of an existing gasoline service station, with an accessory convenience store, located within an R6/C2-4 zoning district, requires a special permit from the Board as per Z.R. §73-211.
COMMUNITY BOARD #3Q

25-04-BZ B.M. 521/25 West 36th Street, between 10th and 11th Avenues, Block 708, Lot 20, Borough of Manhattan. Applic.#103636059. The legalization of three residential units, in an existing four-story and penthouse mixed use building, located within an M1-5 zoning district, is contrary to Z.R. §42-00.
COMMUNITY BOARD #4M

26-05-BZ B.BK. 1702/28 East 9th Street, aka 815 Kings Highway, west side, between Kings Highway and Quentin Road, Block 6665, Lots 7, 12 and 15, Borough of Brooklyn. Applic.#301647895. Proposed bulk variance, to facilitate the new construction of an 89 room hotel on floors 4-6, catering facility on floors 1-3, ground floor retail and three levels of underground parking, which creates non-compliance with regards to floor area, rear yard, interior lot, permitted obstructions in the rear yard, setback, sky exposure plane, loading berths and accessory off-street parking spaces, is contrary to Z.R. §33-122, §33-26, §33-432, §36-21, §33-23 and §36-62.
COMMUNITY BOARD #15BK

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

CALENDAR

MARCH 29, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 29, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

200-24-BZ

APPLICANT - Stephen Ely, for Ebed Realty c/o Ruben Greco, owner.

SUBJECT - Application December 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy, located in an R8 and C8-2 zoning district.

PREMISES AFFECTED - 3030 Jerome Avenue a/k/a 3103 Villa Avenue, 161.81' south of East 204th Street on the East Side of Jerome Avenue, Block 3321, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #7BX

189-96-BZ

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

SUBJECT - Application September 8, 2004 - Extension of 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

28-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Farbod Realty Corp., owner; Harris G. Joseph, Inc., lessee.

SUBJECT - Application - November 5, 2004 - Extension of Term & Amendment for the use of a Physical Cultural Establishment which was granted by BSA pursuant to Section 73-36 of the Zoning Resolution on February 4, 2003 for a term of two years. The application requests a change in the hours of operation contrary to the conditions set in the prior Resolution, located in a C5-2 zoning district.

PREMISES AFFECTED - 80 Madison Avenue, between 28th and 29th Streets, Block 858, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

201-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marilyn Levine & Melvin Mesnick, Urban Spa, Inc., dba Carapan, lessee.

SUBJECT - Application May 14, 2004 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, located in the basement level of a four story commercial structure,

APPEALS CALENDAR

210-04-A

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

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

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

COMMUNITY BOARD #7Q

397-04-A

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

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

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

COMMUNITY BOARD #7M

MARCH 29, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, March 29, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

174-04-BZ

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

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

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

COMMUNITY BOARD #4M

situated in a C6-2M zoning district, which requires a special permit.

PREMISES AFFECTED - 5 West 16th Street, between Fifth Avenue and Avenue of the Americas, Block 818, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #5M

CALENDAR

209-04-BZ

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

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

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

COMMUNITY BOARD #7Q

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, FEBRUARY 15, 2005
10:00 A.M.**

as printed in the Bulletin of December 16, 2004, Volume 89, Nos. 49-50.

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, December 7, 2004, were approved

SPECIAL ORDER CALENDAR

MINUTES

135-46-BZ

APPLICANT - Harold Weinberg, P.E., for Leon Rubinfeld, owner.
SUBJECT - Application January 7, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired January 29, 2002.

PREMISES AFFECTED - 3802 Avenue U, southeast corner of East 38th Street, between Ryder Avenue and East 38th Street, Block 8755, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Harold Weinberg, P.E.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the rules of practice and procedure, a re-opening to amend the resolution, and a renewal of term for a previously granted variance that expired January 29, 2002; and

WHEREAS, a public hearing was held on this application on October 26, 2004 after due notice by publication in The City Record, with continued hearings on December 7, 2004 and January 25, 2005 and then to February 15, 2005 for decision; and

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

WHEREAS, Community Board No. 18, Brooklyn, recommends disapproval of this application; and

WHEREAS, the premises is located on the southeast corner of East 38th Street, between Ryder Avenue and East 38th Street, Brooklyn; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since July 16, 1946, when under the subject calendar number, it granted a variance for a change of use, to allow the erection of a new building on an existing gasoline service station and parking for more than five (5) motor vehicles, minor repairs, brake testing and wheel alignment; and

WHEREAS, the applicant represents that use of the site for gasoline sales has not been active for over two years, but that the

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

(DOB Application No. 301689466)

Adopted by the Board of Standards and Appeals, February 15, 2005.

102-95-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for The Argo Corp., as agent for 50 West 17 Realty Co.; Renegades Assoc. dba Splash Bar, lessee.

SUBJECT - Application March 23, 2004 - Extension of Term for an

owner now desires to reinstate the use; and

WHEREAS, the Board finds that the reinstatement of the gasoline sales use on the subject site is appropriate, with the conditions set forth below, including a condition that the curb cuts on East 38th and Ryder Streets shall be eliminated.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "To permit a renewal of the term of a previously granted variance that expired January 29, 2002, for a term of ten years; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received January 26, 2005' - (1) sheet; and on further condition:

THAT the term of this grant shall be for 10 years, from January 29, 2002, to expire on January 29, 2012;

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

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

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

THAT all work shall be with hand tools only;

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

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

THAT active gas pumps be maintained on the premises;

THAT the above conditions shall be listed on the Certificate of Occupancy;

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

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

THAT all signage shall comply with the C2-2 zoning district regulations;

THAT all curb cuts shall be as shown on BSA-approved plans; the curb cut on Ryder Street and the curb cut on East 38th Street shall be removed;

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

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

eating & drinking establishment with dancing. Amendment for interior modifications in portions of the cellar and first floor. Located in M1-6M zoning district.

PREMISES AFFECTED - 50 West 17th Street, south side of West 17th Street, between 5th Avenue and 6th Avenue, Block 818, Lot 78, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

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

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extension of the term of the variance that expired on March 5, 2004, and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on February 1, 2005, after due notice by publication in The City Record, and then to February 15, 2005 for decision; and

WHEREAS, Community Board 5, Manhattan, recommended approval of this application; and

WHEREAS, the subject premises is located on the south side of West 17th Street between Fifth and Sixth Avenues, and is improved upon with a 12-story structure that contains the subject eating and drinking establishment use on the cellar and first floor levels; and

WHEREAS, on March 5, 1996, the Board granted an application under the subject calendar number, to permit the conversion of an existing eating and drinking establishment (Use Group 6) to an eating and drinking establishment with entertainment and a capacity of more than 200 persons, with dancing (Use Group 12), in the first floor and cellar of the 12-story building, for a term of two years; and

WHEREAS, the Board has subsequently granted other applications for extensions of the term of the variance as well as minor amendments to the resolution, most recently on August 14, 2001; and

WHEREAS, the applicant represents that the site has been rezoned recently, from M1-6M to C6-4A; and

WHEREAS, in addition to an extension of term, the subject application seeks an amendment to legalize the addition of storage closets, as well as a change in the location of some interior doorways; and

WHEREAS, the applicant represents that these interior modifications have not created any adverse impacts in connection with the operation of the subject establishment, nor have they increased the floor area; and

WHEREAS, the Board has reviewed the record and evaluated the representations of the applicant, and finds that the requested extension and amendment are appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this **322-98-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for HUSA Management Co., LLC, owner; TSI Harlem USA, Inc. d/b/a New York Sports Club, lessee.

SUBJECT - Application March 15, 2004 - reopening for an amendment to the resolution to allow the enlargement of a previously granted special permit permitting the operation of a physical culture establishment located in portions of the first floor and of the fourth floor of the subject premises.

PREMISES AFFECTED - 300 West 125th Street, south side of West 125th Street, between St. Nicholas Avenue and Frederick Douglas Boulevard, Block 1951, Lots 22, 25, 27, 28, 29, 33, 39, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

portion of the resolution shall read: "To extend the term of the variance for an additional three (3) years from March 5, 2004, to expire on March 5, 2007, and to permit the legalization of the addition of storage closets and a change in the location of some interior doorways; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received February 2, 2005' - (3) sheets ; and on further condition:

THAT the term of this grant is from March 5, 2004 to March 5, 2007;

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

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

THAT there will be no queuing of patrons on the sidewalk abutting the premises, or anywhere else outside of the building;

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 internal layout of the premises, all exiting requirements, and Local Law 58/87 compliance, shall be as reviewed and approved by the Department of Buildings;

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

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

(DOB Application No. 102482760)

Adopted by the Board of Standards and Appeals, February 15, 2005.

Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION:

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

WHEREAS, a public hearing was held on this application on January 11, 2005, after due notice by publication in the City Record, with a continued hearing on February 1, 2005, and then to February 15, 2005 for decision; and

WHEREAS, Community Board 10, Manhattan, recommends approval of the subject application; and

WHEREAS, on March 23, 1999, the Board granted a special permit application pursuant to Z.R. § 73-36, to permit in a C4-5 zoning district, the use of portions of the first and fourth floors of an existing four-story building as a physical culture establishment ("PCE"); and

WHEREAS, the record indicates that the PCE was approved for instruction and programs for physical improvement, strength

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training and aerobic improvement; and

WHEREAS, the instant application seeks to expand the facility on the fourth floor of the building in order to allow for the construction of a basketball court, as an accessory use to the PCE; and

WHEREAS, the applicant represents that the proposed enlargement comprises 5,343 square feet of floor area; and

WHEREAS, the Board finds that this application is appropriate to grant, with the conditions set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit a 5,343 square-foot expansion of the facility on the fourth floor of the building in order to allow for the construction of a basketball court as accessory to the PCE; on condition that all work shall substantially conform to drawings as filed with this application, marked 'November 16, 2004'- (2) sheets and 'February 2, 2004' - (4) sheets; and on further condition:

THAT the Department of Buildings will ensure that the proposed enlargement complies with all applicable district bulk regulations;

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

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

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

(DOB Application No. 101835016)

Adopted by the Board of Standards and Appeals, February 15, 2005.

WHEREAS, the Board has exercised jurisdiction over the subject premises since May 7, 1948, when under Calendar No. 512-48-BZ, the Board granted a variance for a change of use, to allow the erection and maintenance of a gasoline service station; and

WHEREAS, on October 14, 1987, under Calendar Number 844-87-BZ, the Board granted a special permit for construction of, and the use of the subject lot as, a self-service gasoline station, for a term of ten (10) years; and

WHEREAS, the grant under Calendar Number 844-87-BZ included a Conditional Negative Declaration (the "1989 CND"), which contained various requirements to be satisfied, all related to the use of the gasoline service station; and

WHEREAS, the special permit granted under Calendar Number 844-87-BZ expired on December 5, 1999 and was never renewed; and

WHEREAS, on October 29, 2004, under the subject calendar number, the Board granted a special permit to allow in a C2-2/R3-2 zoning district, the legalization of an automotive service station use, as well as approval of modifications to existing signage, on condition that within 5 months from the date of the grant, the applicant should satisfy various environmental conditions set forth in the resolution issued by the Board; and

WHEREAS, this resolution also provided that the grant would

178-03-BZ

APPLICANT - Eric Palatnik, P.C., for King Carmichael, owner; BP Products North America, lessee.

SUBJECT - Application December 19, 2003 - reopening for an extension of term of variance which expires April 28, 2004.

PREMISES AFFECTED - 114-02 Van Wyck Expressway, for southwest corner of Linden Boulevard and Van Wyck Expressway, Block 11661, Lot 7, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION-

WHEREAS, this is an application for a reinstatement for a previously granted variance that expired on April 28, 2004, by operation of a previously issued resolution; and

WHEREAS, a public hearing was held on this application on March 23, 2004 after due notice by publication in The City Record, with continued hearings on May 18, August 10, and November 16, 2004 and then to February 15, 2005 for decision; and

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

WHEREAS, the premises is located on the southwest corner of Linden Boulevard and Van Wyck Expressway, Queens; and

expire on April 28, 2004, and that a new application would then have to be filed; and

WHEREAS, when the instant application was initially filed, the applicant represented that not all of the conditions contained in the previous BSA resolution had been satisfied; and

WHEREAS, however, during the course of the hearing process, all the environmental conditions were satisfied; and

WHEREAS, a Restrictive Declaration was executed and recorded for the subject site which addressed the environmental conditions raised in the 1989 Conditional Negative Declaration for the prior case; and

WHEREAS, therefore, the Board concludes that it is appropriate to reinstate the previously expired grant.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "To permit the renewal of a previously granted variance that expired April 28, 2004; on condition:

THAT all relevant site-mitigation conditions from prior resolutions, including the resolution dated October 23, 2004, 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;

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and

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

(DOB Application No. 4016488885)

Adopted by the Board of Standards and Appeals, February 15, 2005.

1126-48-BZ

APPLICANT - Sheldon Lobel, P.C., for Advance Parking LLC, owner.

SUBJECT - Application July 30, 2004 - Reopening for an extension of term of variance for an open garage for parking & storage of more than five(5) motor vehicles, located in C-5 zoning district.

PREMISES - 249/51 West 43rd Street, north side of West 43rd Street, 200' east of 8th Avenue, Block 1015, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at **208-78-BZ**

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

SUBJECT - Application May 18, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance to permit a funeral establishment (Use Group 7), located in an R3-2 zoning district.

PREMISES AFFECTED - 2145 Richmond Avenue, east side of Richmond Avenue, 11.74' south of Rockland Avenue, Block 2360, Lot 54, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for decision, hearing closed.

259-98-BZ

APPLICANT - Davidoff Malito & Hatcher LLP by Howard S. Weiss, Esq., for Kent Plaza Realty Corp., owner.

SUBJECT - Application November 17, 2004 - reopening for an amendment to a previously granted variance for a multiple dwelling located in an M1-2 zoning district.

10 A.M., for decision, hearing closed.

722-68-BZ

APPLICANT - Sheldon Lobel, P.C., for Matthews Pines, owner; Speedstar Motors, Inc., lessee.

SUBJECT - Application July 30, 2003 - reopening for an amendment to legalize a change of use from wholesale storage and packaging establishment, with an accessory office and loading area (Use Group 16) to automotive repair and sales (Use Group 16) and warehouse (Use Group 16), with accessory offices, located in an R-6 zoning district.

PREMISES AFFECTED - 388-392 Kings Highway, West 3^d Street and Kings Place, Block 6678, Lot 68, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Irving E. Minkin.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for decision, hearing closed.

PREMISES AFFECTED - 761-773 Kent Avenue a/k/a 763 Kent Avenue, south frontage of Kent Avenue between Little Nassau Street and Flushing Avenue, Block 1884, Lots 36 & 33 (tent 36), Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Howard S. Weiss.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at 10 A.M., for decision, hearing closed.

133-99-BZ

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

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

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

COMMUNITY BOARD #15BK

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APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for continued hearing.

277-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; John & Anne Egan, lessees.

SUBJECT - Application August 10, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, located partially within the bed of a mapped street and has a private disposal system in the bed of a mapped street, is contrary to Sections 35 and 36, of the General City Law and Department of Buildings Policy

PREMISES AFFECTED - 155 Reid Avenue, east side, 493.42' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES - None.

ACTION OF THE BOARD -Appeal granted on condition

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

WHEREAS, by letter dated November 30, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated October 19, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated November 10, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 12, 2004, acting on Department of Buildings Application No. 401867958, 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 November 26, 2004"-(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) and/or configuration(s) not related to the relief granted.

Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION-

WHEREAS, the decision of the Queens Borough Commissioner, dated July 12, 2004, acting on Department of Buildings Application No. 401867958, reads:

"A-1 The proposed enlargement is on a site located partially in the bed of a mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 35 of the General City Law;

A-2 The site and building is not fronting on an official mapped street; therefore, no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law; also, no permit can be issued since the proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and is therefore contrary to Section C27-291 (C26-401.1) of the Administrative Code of the City of New York .

A-3 The private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy."; and

WHEREAS, a public hearing was held on this application on February 1, 2005 after due notice by publication in the City Record, and then to decision on February 15 2005; and

Adopted by the Board of Standards and Appeals, February 15, 2005.

148-04-A

APPLICANT - Jenkins & Gilchrist Parker Chaplin, LLP and Fischbein Badillo Wagner Harding

OWNER OF RECORD: Sterling & Seventh LLC.

SUBJECT - Application April 5, 2004 - Under Z.R. §12-10 to reverse the NYC Department of Buildings' revocation of the above referenced permits. The permits had allowed for the subdivision of Lot 52 from Lots 55, 58, and 61 and the construction of new building on Lot 52.

PREMISES AFFECTED - 133 Sterling Place, a/k/a 22 Seventh Avenue, northwest corner, Block 942, lots 48 and 52, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Peter Geis.

For Administration: Lisa Orantia, Department of Buildings.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, February 15, 2005.

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Pasquale Pacifico, Executive Director.

Adjourned: 10:25 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, FEBRUARY 15, 2005
2:00 P.M.**

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

ZONING CALENDAR

WHEREAS, the decision of the Borough Commissioner, dated September 11, 2003, acting on Department of Buildings Application No. 102987314, reads, in pertinent part:

"Dwelling units are not permitted as-of-right in a M1-5 district as per sections 42-00 ZR and 42-133 ZR."; and

WHEREAS, a public hearing was held on this application on February 3, 2004 after due notice by publication in the City Record, with continued hearings on March 23 and July 13, 2004, and then to decision on September 21, 2004; the decision was deferred to November 8, 2004, on which date the matter was reopened, and then to decision on February 15, 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, this is an application under Z.R. § 72-21, to permit, within an M1-5 zoning district, residential use of three co-op units on the third, fourth and fifth floors of an existing building (Use Group 2), contrary to Z.R. §§ 42-00 and 42-133; and

WHEREAS, this application is brought on behalf of 253 West 28th Street Corp., a residential co-operative; and

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

WHEREAS, the subject zoning lot is 49'-9" wide by 116'-11¼" deep, with a total lot area of 5,825 sq. ft., and is improved upon with a five-story plus cellar, 50' high co-op building with 27,778 sq. ft. of total floor area (the "subject building" or "building"); and

WHEREAS, the applicant states that the subject building was built in 1896 as a stable and wagon storage facility, changed to light manufacturing and furrier use in the 1930s, and left vacant in the mid-1970s; and

WHEREAS, the applicant further states that the building converted to a co-operative in 1979, and, in years subsequent, the first floor and cellar were sold to a nightclub, the second and fifth floors were sold to photographers, the third floor was sold to an artist, and the fourth floor was sold to an attorney; and

WHEREAS, the record indicates that the first floor and cellar

221-03-BZ

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

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

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

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Don Weston, Frank Angelino and Peter Mackie.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

level of the building are currently undergoing renovations to accommodate a nightclub (hereinafter, the "Club" or the "Lessee"), which plans to establish operations on these levels; and

WHEREAS, Certificate of Occupancy No. 87128 lists the following as legal uses of the building: cellar - boiler room & storage, dressing rooms, toilet rooms and storage rooms for Eating and Drinking Establishment at 1st floor; first floor - Eating and Drinking Establishment without restrictions Use Group No. 12; second floor - Photographic Studio; third floor - Art Studio; fourth floor - Offices; and fifth floor - Photographic Studio; and

WHEREAS, the applicant represents that three floors of the building have been used for residential purposes for more than twenty years; and

WHEREAS, both the Lessee and the owner of the shares allocable to the cellar and first floor co-op units (hereinafter, the "First Floor Owner") appeared in opposition to the subject application; and

WHEREAS, the applicant represents that the following are unique physical conditions inherent to the subject building and zoning lot, which create practical difficulties and unnecessary hardship in developing the entire building with a conforming use: (1) the ceilings are too low for most commercial or industrial uses; (2) the one small elevator is not suitable for most commercial or industrial uses; (3) the space is broken up with columns spaced at 18 ft. on center; (4) the total floor loading capacity is 88 pounds per square foot; (5) the floor plates are too small for most commercial and industrial users; (6) the electrical service is inadequate; (7) the building adjoins two zoning districts that permit residential use; (8) there is no off-street parking or loading; (9) the subject units could have qualified for Interim Multiple Dwelling status at one time; and (10) the Fashion Institute ("FIT") is directly across the street; and

WHEREAS, in a submission dated August 23, 2004, the Lessee disputes that any of the ten factors listed above constitute a unique physical condition inherent to the building or zoning lot; and

WHEREAS, the Board agrees that adjacency to residential districts, lack of off-street parking, potential qualification for IMD status and proximity to FIT should not be considered unique

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physical conditions; and

WHEREAS, however, the Board disagrees that the other factors, when considered together, could not properly be considered unique physical conditions, and notes that similar fact-patterns have been found sufficient to support the uniqueness finding in other cases; and

WHEREAS, in addition, in response to the contention of the Lessee that the subject building is not unique, the applicant made a submission which provided further explication of why the subject building is significantly different than others in the vicinity; and

WHEREAS, the analysis showed that the subject building was different from the three remaining buildings which were possibly comparable to the subject building, explaining that one of the buildings was a larger, modern building on a corner lot, one was in a zone that allowed residential use as-of-right, and one was actually significantly smaller; and

WHEREAS, based upon its review of the record and its observations, the Board finds that the subject building is unique relative to neighboring properties, and notes that even if there were more buildings comparable to the subject building in the area, a finding of uniqueness would nevertheless not be precluded, so long as the comparable buildings were not the prevailing building form within the area; and

WHEREAS, however, the Board observes that five-story loft buildings with bulk parameters comparable to the subject building are not the predominant building form in the surrounding neighborhood; and

WHEREAS, accordingly, the Board finds that certain of the unique conditions mentioned above, namely, that (1) the low ceilings, small floor plates, antiquated electrical service, and small elevator are not suitable for most commercial or industrial uses, (2) the space is broken up with columns spaced at 18 ft. on center, and (3) the total floor loading capacity is deficient, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the entire site in strict conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study, and subsequent amplifying submissions, which purport to show that a conforming proposal for the subject building would not result in a reasonable return; and

WHEREAS, the First Floor Owner contends that the original feasibility analysis is flawed because it analyzes the conforming use scenario based upon rentals from all five co-op units, but analyzes the proposed variance scenario only based upon rental value for the third through fifth floors; and

WHEREAS, in order to address this concern, the Board asked the applicant to analyze the entire building as a hypothetical rental proposal, on the theory that this would lead to consideration of the building's financial hardship in its entirety, which would provide a better measure of the building's economic viability for conforming uses; and

WHEREAS, in response, the applicant's financial consultant conducted such a study, and utilized the estimate of building value proposed by the First Floor Owner's financial expert; and

WHEREAS, the First Floor Owner's financial consultant questioned the use of this estimate as a true reflection of the building value, alleging that he proffered the figure not as a proposed acquisition cost, but as a representation of the return that could be

WHEREAS, the applicant's financial consultant, in a submission dated January 4, 2005, provided an analysis of all buildings within a 400' radius of the subject site; and

WHEREAS, this analysis distinguished the subject building from other buildings in this radius that had different permitted uses, were in different zoning districts, or which were substantially smaller or larger in terms of stories, floor plate sizes, and/or lot sizes; and

WHEREAS, the analysis also eliminated for comparison purposes vacant land or land occupied by parking lots or garages; and realized from the investment of the individual unit owners when aggregated; and

WHEREAS, the Board notes that this is the equivalent of market value, and thus this estimate is an appropriate figure to use; and

WHEREAS, using this site valuation, the applicant's financial expert also stated that the estimate is an appropriate measure of current value, based upon an aggregate of average vacant land sales and the replacement value of the subject building; and

WHEREAS, the applicant's financial expert also notes that the original valuation estimate submitted with the first feasibility study was made over one year ago, and that updating of the land value was therefore necessary and appropriate; and

WHEREAS, accordingly, the Board agrees with the applicant that the revised building value estimate is reasonable; and

WHEREAS, the applicant's financial consultant concluded that a conforming use alternative did not realize a reasonable return, but that the proposed mixed-use alternative realized a modest return; and

WHEREAS, the First Floor Owner also questioned the methodology that the Board proposed to the applicant, and suggested that if an evaluation of the actual profit that each individual unit owner could make based upon acquisition and sales prices was undertaken, no hardship could be shown; and

WHEREAS, however, the Board notes that individual unit owner profit is not an appropriate gauge by which to measure hardship, for the obvious reason that an inflated acquisition price could lead to a hardship claim in every application; this problem is precisely the reason why the Board instead used an estimate of overall building value based upon the market; and

WHEREAS, moreover, the Board notes that the applicant was instructed to approach the analysis as a rental proposal for the entire building because the First Floor Owner alleged that the original analysis was, in part, not based upon the entire building; and

WHEREAS, the Board notes that the finding set forth at Z.R. § 72-21(b) requires an analysis of the entire zoning lot (and thus any building thereupon), which would make a full rental proposal a much more appropriate measure of hardship than an assessment of an individual unit owner's ability to make a profit on an acquisition and sale; and

WHEREAS, the Board notes that marketing attempts are often submitted or requested by the Board in the context of a variance application, but observes that no Board rule requires that such evidence be submitted in each and every case, as the Lessee contends; and

WHEREAS, here, such evidence would have been difficult to obtain given the fact that any marketing attempts would have to be

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initiated by the individual shareholder/occupants of the subject units, who did not have any motivation to market the units given the use of them for residential purposes; and

WHEREAS, moreover, here, the Board is able to render a

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

WHEREAS, the applicant represents that the proposed variance, if granted, will not negatively impact the character of the community; and

WHEREAS, the applicant represents that the character of the community is mixed-use, and cites to, as illustrated on the submitted land use map, numerous residential, community facility, and residential-compatible uses in close proximity to the subject site, including FIT, some multiple dwellings, commercial uses, a religious institution, vacant lots, and parking garages; and

WHEREAS, based upon the evidence submitted, the Board agrees that the neighborhood in which the subject site is located is best characterized as mixed-use; and

WHEREAS, the Board also finds that the proposal only contemplates the legalization of three residential units, which is a small amount that is compatible with the mixed-use character of the neighborhood; and

WHEREAS, accordingly, the Board finds that the variance, if granted, will not negatively impact the character of the neighborhood; and

WHEREAS, the applicant also represents that the proposed variance, if granted, will not adversely impact adjacent conforming uses, including the Club in the cellar and first floors of the Building; and

WHEREAS, both the Lessee and the First Floor Owner contend that the likely sound levels that will emanate from the Club could be so significant that regardless of any sound attenuation measures taken by the applicant, there is no assurance that Noise Code violations would not be issued to the Club; and

WHEREAS, both the Lessee and the First Floor Owner argue that legalizing the third through fifth floors will give the occupants of those floors the legal right to complain to the City's Department of Environmental Protection about noise resulting from the Club's operations, and that the Club could be forced out of business as a consequence; and

WHEREAS, the First Floor Owner has provided expert testimony in support of these contentions; and

WHEREAS, the applicant has submitted its own expert testimony, which the applicant argues shows that Noise Code compliant levels could be achieved in the proposed residential units, with the installation of sound attenuation measures that the individual shareholders of the third, fourth and fifth floors have committed to undertaking; and

WHEREAS, the Board observes that since the Club is not in operation and no test can be conducted, the alleged harm that the Club might suffer if the residential units are legalized is speculative at best; and

WHEREAS, even so, the Board notes that if sound attenuation measures can indeed shield the residential units from the noise

determination as to the finding set forth at Z.R. § 72-21(b) in the absence of such evidence, as the revised feasibility study and subsequent submissions are sufficient to support the finding; and

generated by the Club such that no Noise Code violation would result, then it is reasonable to conclude that there would be no potential adverse impact upon the Club; and

WHEREAS, the Board observes it need not determine which expert is correct, and instead conditions the grant made herein on Department of Buildings enforcement of a series of conditions requiring that the individual shareholders seeking legalization install and maintain sound attenuation and further requiring that a test be conducted within each of the proposed residential units, the result of which must show that no Noise Code violable condition exist in any of the units when the Club is in operation; and

WHEREAS, this condition will specify that no temporary or permanent certificate of occupancy shall be issued absent such a test report; and

WHEREAS, should the tests result show that the a Noise Code violable condition does in fact exist in the proposed residential uses, then no certificate of occupancy can be issued, and the units will not be legalized; and

WHEREAS, the Board finds that the conditions provide reasonable protection for the Club (should it open) from any potential impact due to the grant of the variance herein; and

WHEREAS, the Board notes that the series of conditions in not intended in any way to limit or otherwise compromise the Department of Environmental Protection's authority to enforce any provision of the Noise Code as necessary; and

WHEREAS, in sum, based on the above, the Board finds that the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Lessee argues that the failure of the occupants of floors three through five to take advantage of a residential conversion option through the Loft Law during the time period when these floors could have been converted constitutes a self-created hardship; and

WHEREAS, the Board disagrees, and notes that the claimed hardship is based upon the functional obsolescence for conforming use of the third through fifth floors; the fact that prior occupants did not avail themselves of the conversion option under the Loft Law is not relevant; and

WHEREAS, similarly irrelevant is the Lessee's claim that the fourth floor was recently purchased for commercial use, and that this prevents a claim of hardship based upon inability to use the space for commercial use; and

WHEREAS, the Board is aware that commercial properties are often purchased ostensibly as commercial properties, not in anticipation of actual commercial use, but in anticipation of a potential variance application, and that the finding set forth at Z.R. § 72-21(d) contemplates that this can legally occur; and

WHEREAS, Z.R. § 72-21(d) provides in part, "where all other required findings are made, the purchase of a zoning lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship"; and

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

WHEREAS, this proposal is the minimum necessary to afford 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.

WHEREAS, the Board notes in passing that the First Floor Owner has made various allegations as to the conduct of the applicant concerning various contractual arrangements with the applicant that are not pertinent to the Board's deliberations on the variance application; 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. 03-BSA-220M dated June 26, 2003; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, 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, to permit, within an M1-5 zoning district, the legalization of residential use of three co-op units on the third, fourth and fifth floors of an existing building (Use Group 2), contrary to Z.R. §§ 42-00 and 42-133; on condition that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received August 9, 2004"-(3) sheets; and on further condition:

THAT the individual shareholders with ownership interests in the co-op units on the third, fourth, and fifth floors of the subject building, or any of their successors, shall install, or shall ensure the installation of, at their own expense, sound attenuation measures within the building such that the db and dB(A) levels in the proposed residential

8-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Jewish Center of Torah Emeth, owner; Yeshiva Ketanah D'Queens, lessee.

SUBJECT - Application June 9, 2004 - under Z.R. §72-21 to permit the proposed renovation of an existing two story community facility (school), Use Group 3, by the addition of two additional

units on the third through fifth floors are compliant with the City's Noise Code provisions applicable to buildings with residential occupancy, taking into consideration the sound levels from the nightclub use on the first floor;

THAT at all times, the individual shareholders, or their successors, shall monitor, maintain in good condition, and upgrade if necessary, the installed sound attenuation measures, such that the db and dB(A) levels in the proposed residential units on the third through fifth floors are compliant with the City's Noise Code provisions applicable to buildings with residential occupancy, taking into consideration the sound levels from the nightclub use on the first floor;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT no temporary or final certificate of occupancy legalizing residential use on the third through fifth floors of the subject building shall be issued unless and until a test report from the Department of Environmental Protection is submitted to the Department of Buildings;

THAT this test report must show that the db and dB(A) levels in the proposed residential units are compliant with the City's Noise Code provisions applicable to buildings with residential occupancy in effect at the time of the test;

THAT this test shall be conducted when the nightclub proposed for the first floor and cellar level of the subject building is in operation and playing music;

THAT this resolution does not constitute in any way a final legalization of the proposed residential use on the third through fifth floors of the subject building; final legalization of the residential uses shall only occur upon issuance of a certificate of occupancy;

THAT this set of conditions is not intended to limit in any way the Department of Environmental Protection's authority to enforce the Noise Code, either as it exists currently or as modified, at any time;

THAT all light and air requirements per the Multiple Dwelling Law, and all Home Occupation 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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 15, 2005.

stories, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, height of front walls, and the location of front stair and handicap elevator, which is contrary to Z.R. §24-11, §24-521, §24-34 and §24-33.

PREMISES AFFECTED - 78-15 Parsons Boulevard, between 78th Avenue and 78th Road, Block 6829, Lot 1, Borough of

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Queens.

COMMUNITY BOARD #8

APPEARANCES -

For Applicant: Elisa B. Hwu.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated December 8, 2003, acting on Department of Buildings Application No. 400865328, reads:

"1. Proposed Floor Area Ratio, Community Facility, is contrary to ZR 24-11

2. Proposed height of front walls, Community Facility, is contrary to ZR 24-521

3. Proposed front stair location & handicap elevator location on front yard is not a permitted obstruction, and contrary to ZR 24-34 & 24-33."; and

WHEREAS, a public hearing was held on this application on November 16, 2004 after due notice by publication in The City Record, with a continued hearing on January 11, 2005, and then to decision on February 15, 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, this is an application under Z.R. § 72-21, to permit, within an R3-2 zoning district, the vertical expansion of an existing religious school, which does not comply with applicable district requirements for Floor Area Ratio ("F.A.R."), height of front walls, front stair location, and handicap elevator location, contrary to Z.R. §§ 24-11, 24-521, 24-33 & 24-34; and

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

WHEREAS, both the Queens Borough President and Community Board 8, Queens, recommended conditional approval of this application; and

WHEREAS, the local Civic Association objected to the proposed application, largely due to concerns about parking; and

WHEREAS, the subject site is located between 78th Avenue and 78th Road, with a total lot area of 21,994 sq. ft., and is currently improved upon with a two-story building with a total floor area of

WHEREAS, the applicant states that the current play area is too small to handle the anticipated increase in enrollment, and that even with the enrollment as it exists now, recesses must be staggered and scheduled at inconvenient times; and

WHEREAS, the applicant represents with the addition of the roof-top play area, the DOE, but not the DCP, standards will be met; and

WHEREAS, the applicant also represents that the ability to provide the proposed additional classrooms and school space in the proposed arrangement will enhance the ability of the School to operate effectively; and

WHEREAS, the Board agrees that, based upon the submitted

21,142 sq. ft., occupied by the School, as well as a one-story synagogue; and

WHEREAS, the applicant proposes to construct an approximately 8,500 sq. ft., two-story addition to the existing School building, to house additional classrooms, offices, and resource rooms; and

WHEREAS, the applicant also proposes a roof-top play area of approximately 2,800 sq. ft.; and

WHEREAS, construction of the addition as currently proposed will result in the following non-compliances: an F.A.R. of 1.35 (1.0 is the maximum permitted); and a front wall height of 40 ft. (25 ft. is the maximum permitted); and

WHEREAS, additionally, an elevator and front stairwell will be located outside the envelope of the building, and are not considered permitted obstructions within the front yard; and

WHEREAS, the Board notes that the stairwell already exists; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: the School building has insufficient space for necessary programs as it was not designed to accommodate the increased enrollment of the School and the resulting programmatic needs; and

WHEREAS, the applicant states that the following are the programmatic needs of the School, all of which have been driven by an increase in enrollment, from the current 290 students to an estimated 340 students: (1) increased classroom space; (2) increased number of resource rooms for students with special needs; (3) space for a library and conference room; and (4) an extra recreation space in addition to the existing play area at the ground floor level; and

WHEREAS, the applicant also represents that the placement of the elevator outside the envelope of the building with the stairwell was necessitated by the need to not have these elements take away valuable square footage allotted for programmatic needs; and

WHEREAS, in response to Board questions about the need for the additional roof-top play area, the applicant provided the Board with a submission showing that without the additional space, the recreational area would not meet the standards for square feet of play area per student promulgated by the New York City Department of Education ("DOE") or the Department of City Planning ("DCP"); and

evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

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

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

WHEREAS, the applicant represents that the proposed

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variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant states that even when increased in height, the School building will not be significantly higher in appearance than three-story dwellings across the street that have peak roofs; and

WHEREAS, the applicant also notes the existence of nearby community facilities with greater or comparable height, including a five-story hospital one block away and a four-story public school two blocks away; and

WHEREAS, the applicant represents that traffic impacts will be minimal, as most of the students live within a mile of the School and will walk; and

WHEREAS, the applicant conducted a parking study, which showed that there is an adequate amount of on-street parking spaces in the surrounding area for staff members; and

WHEREAS, the Board confirmed on its site visit that on-street parking appeared to be available during the school day; and

WHEREAS, in addition, the applicant submitted a letter from the City's Department of Transportation, indicating that it will install "No Parking School Days 8am-4pm" signs on 78th Avenue; and

WHEREAS, the Board notes that the applicant has agreed to a condition as to the hours of the roof-top play 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 in title; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-118Q dated August 9, 2004; and

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the roof top playground and the exterior stairwell shall meet all legal requirements, as determined by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, February 15, 2005.

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes the required findings under Z.R. § 72-21, to permit, within an R3-2 zoning district, the vertical expansion of an existing religious school, which does not comply with applicable district requirements for Floor Area Ratio, height of front walls, front stair location, and handicap elevator location, contrary to Z.R. §§ 24-11, 24-521, 24-33 & 24-34; 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 February 1, 2005" - (5) sheets and "Received January 8, 2004 - (3) sheets; and on further condition:

THAT the hours of the roof-top play area shall be as follows: from 10 am to 5 pm Monday through Thursday, 9:30 am to 12 pm on Friday, and 10 am to 1 pm on Sunday;

THAT the roof-top play area shall not be used for any other purpose than student recreation, and shall not be used outside the stated hours;

THAT the refuse container shall be enclosed and located on the site as shown on the BSA-approved plans;

THAT the HVAC system shall be located on the roof;

264-04-BZ

APPLICANT - Eric Palatnik, P.C., for Glak Operating Corp., owner.

SUBJECT - Application July 27, 2004 - under Z.R. §§11-412 and 11-413 to permit the legalization of the change in use from motor vehicle repair shop and gasoline service station, Use Group 16, to retail use, Use Group 6, also proposed alterations to the site to effectuate the desired change in use, which requires a special permit. PREMISES AFFECTED - 977 Victory Boulevard, northeast corner of Cheshire Place, Block 240, 26, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD -

THE VOTE TO REOPEN HEARING -Application granted

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on condition.

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated July 16, 2004, acting on Department of Buildings Application No. 500709245, reads, in pertinent part:

"Proposed changes of use and modification of the subject building to be approved by Board of Standards and Appeals"; and

WHEREAS, a public hearing was held on this application on October 19, 2004, after due notice by publication in The City Record, with continued hearings on December 7, 2004 and January 11, 2005, and then to decision on February 15, 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, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and a change in use made pursuant to Z.R. § 11-413; and

WHEREAS, Community Board No. 1, Staten Island, recommended conditional approval of the subject application; and

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §11-413, on a site previously before the Board, the change in use from Use Group 16 to Use Group 6; on condition that

WHEREAS, the Board has exercised jurisdiction over the subject premises since December 4, 1956, when, under BSA Calendar No. 619-45-BZ, it granted an application to permit the use of the site as a gasoline service station with various accessory uses; and

WHEREAS, the applicant represents that the building approved by the Board under the prior grant remains, and is now occupied by a motor vehicle repair shop; and

WHEREAS, the applicant now proposes the conversion of the existing building to Use Group 6 (Retail); and

WHEREAS, slight interior modifications to the existing building are proposed to accommodate the change in use; no structural alterations are proposed; and

WHEREAS, the Board notes that the proposed modifications result in a slight decrease in floor area within the existing building; and

WHEREAS, pursuant to Z.R. § 11-413, the Board may allow a change in use permitted by a pre-1961 variance to a non-conforming use, so long as the change is one that would be permitted under the provisions of Article 5 of the Zoning Resolution; and

WHEREAS, the Board had determined that the evidence in the record supports the findings required to be made under Z.R. § 11-413.

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-016R dated July 27, 2004; and

all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received January 11, 2005" - (3) sheets, "Received February 1, 2005" - (1) sheet and "Received February 11, 2005" - (1) sheet; and on further condition:

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

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

THAT a 6'-0" high, 100 percent opaque wood fence shall be installed and maintained as shown on the BSA-approved plans;

THAT only Use Group 6 uses shall be permitted on the lot;

THAT no use on the site shall be open past 10 PM any day of the week;

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 all signage shall comply with applicable C1 regulations, as reviewed and approved by DOB;

THAT all site and sidewalk trees shall be installed and maintained in the locations indicated on the BSA-approved site plan;

THAT any interior reconfiguration of the proposed building may be approved by DOB without further Board action;

THAT this approval is limited to the relief granted by the Board

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in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

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

Adopted by the Board of Standards and Appeals, February 15, 2005.

331-04-BZ

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig, LLP, owner; Century 21 Department Stores, LLC, lessee.

SUBJECT - Application October 7, 2004 - under Z.R. §72-21 to permit in a C5-5 (Lower Manhattan Special District) the expansion of floor area in an existing commercial structure (Century 21). The proposed enlargement exceeds the maximum floor area permitted.

PREMISES AFFECTED - 26 Cortlandt Street, northeast corner of Dey Street, Block 63, Lots 3 and 6, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a C5-5 zoning district (within the Lower Manhattan Special District), a floor area variance to allow the existing partial second floor of the Century 21 store to be expanded by 4,583 sq. ft., while an equal amount of floor area will simultaneously be retired from a property adjacent to the store, and to permit a variance from the requirement to relocate two adjacent subway entrances into the store as a result of the expansion, contrary to Z.R. §§ 31-122 & 91-43; and

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

WHEREAS, the subject site is located on the north side of Cortlandt Street and along the eastern side of Church Street, with a total lot area of 38,178 sq. ft., and is comprised of two tax lots (3 and 6); and

WHEREAS, the proposed expansion will affect Century 21's interest in three contiguous buildings: 26 Cortlandt Street (Block 63, Lot 6), the five-story former East River Savings Bank (the "Bank Building"); 22 Cortlandt (Block 63, Lot 3), a thirty three-story office tower (the "Tower Building"); and 10-12 Cortlandt Street (Block 63, Lot 1); and

WHEREAS, the applicant states that Century 21 owns both the Bank Building and 10-12 Cortlandt Street, and holds a 99-year lease to six stories in the Tower Building; and

WHEREAS, the applicant states that the three buildings are interconnected and each is occupied by Century 21; and

WHEREAS, the applicant represents that Century 21 suffered a significant decline in sales due to its proximity to the World Trade Center site and the resulting access restrictions on local streets around the store, implemented to

For Applicant: Melaney McMurry.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decisions of the Borough Commissioner, dated September 30, 2004 and January 14, 2005, acting on Department of Buildings Application No. 101013957, read, respectively:

"The proposed enlargement of the 2nd floor exceeds the maximum floor area permitted and is therefore contrary to Section 31-122 of the Zoning Resolution." and

"The proposed enlargement does not comply with the requirements of Section 91-43 of the Zoning Resolution for the off-street relocation or renovation of the existing subway stairs."; and

WHEREAS, a public hearing was held on this application on January 11, 2005 after due notice by publication in The City Record, and then to decision on February 15, 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

accommodate various clean up, rebuilding, and security measures, as well as the general downturn in the economy and departure of businesses from the area; and

WHEREAS, the proposed variance would allow Century 21 to add 4,583 SF of floor area to the Bank Building at the second floor level and the retirement of the same amount of square footage at 10-12 Cortlandt St; and

WHEREAS, the applicant states that an as-of-right merger is not economically feasible due to an inability to arrange reasonable terms with the owners of the Tower Building; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the Bank Building was originally designed for use as a bank, and its long, narrow floor plate (approximately 214' x 48') was not designed for efficient retail layouts and customer circulation; (2) because the first floor sales space is divided by the wall separating the Bank and Tower buildings, the Bank sales space is not visible from the Tower Building, and customer circulation between the two space is restricted to two approximately 12 foot-wide staircases between them; (3) the two portions of the partial second floor are not connected to each other so that, in order to get from one end of the partial second floor to the other, one must travel down to the first floor, across to another staircase, and back up to the partial second floor; (4) because of the location of fire stairs in the Tower Building, it is not possible to connect the existing partial second floor sales space to the adjacent second floor sales area in the Tower Building; and (5) the expense of

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creating the two subway entrances combined with the loss of a significant portion of Century 21's most valuable selling space would far exceed the benefit of the additional 4,583 square feet of second floor space; 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 compliance with the current zoning; and

WHEREAS, the applicant states that the aforementioned unique physical site conditions result in there being no reasonable possibility of using the existing partial second floor as an efficient sales space; and

WHEREAS, the applicant has submitted an analysis of the transactions per square foot per year of the partial second floor, which shows that this space generates approximately 5 transactions per foot per year, while the entire store averages 25 transactions per foot per year; and

WHEREAS, the applicant concludes that, assuming an average of \$20.00 per transaction, the partial second floor generates gross revenues of \$100.00 per foot per year while the entire store averages \$500.00 per foot per year; and

WHEREAS, the applicant states that compliance with the provisions of Z.R. §91-43, which would require the relocation of two adjacent subway stations to within the Building, would be prohibitively expensive in light of the scale of the proposed bulk variance sought and the anticipated return; 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 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §72-21, to permit, within an C5-5 zoning district (within the Lower Manhattan Special District), for a floor area variance to permit the existing partial second floor of the Century 21 store to be expanded by 4,583 sq. ft., while an equal amount of floor area will simultaneously be retired from a property adjacent to the store, and to permit a variance from the requirement to relocate two adjacent subway entrances into the store as a result of the expansion, contrary to Z.R. §§ 31-122 & 91-43; 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 February 1, 2005"-(2) sheets; and on further condition:

THAT prior to issuance of a final certificate of occupancy, a deed restriction providing for the permanent and irrevocable retirement of 4,583 sq. ft. of floor area as to 10-12 Cortlandt Street shall be executed and recorded, and then submitted to the Department of Buildings, with a copy of same to the Board's Executive Director for placement in the case file;

THAT all exiting shall be as reviewed and approved by DOB;

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

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

THAT the Department of Buildings must ensure

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

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

WHEREAS, the applicant states that the expansion of the second floor is contained entirely within an existing building, and is an expansion of an existing use; and

WHEREAS, the applicant also states that because of the small scale of the project, no appreciable increase in traffic to the store will result; and

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

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

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the 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.

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

Adopted by the Board of Standards and Appeals, February 15, 2005.

327-02-BZ

APPLICANT - Harold Weinberg, P.E., for Frank Galeano, owner.
SUBJECT - Application November 4, 2002 - under Z.R. §72-21 to permit the proposed erection of a four story, four family residence, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 82 Union Street, south side, 266'-0" west of Columbia Street, east of Van Brunt Street, Block 341, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

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

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332-03-BZ

APPLICANT - The Agusta Group, for Steve Polisano, Astoria Ice Inc., owner.

SUBJECT - Application October 28, 2003 - under Z.R. §72-21 to permit the proposed addition to an existing sports complex, which does not comply with the zoning requirements for rear yard equivalent, number of required loading berths, and minimum vertical clearance, is contrary to Z.R. §43-28(b), §44-52 and §44-581.

PREMISES AFFECTED - 34-38 38th Street, through block between 37th and 38th Streets, 115' north of 35th Avenue, Block 645, Lot 10, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over without date.

369-03-BZ

APPLICANT - Sheldon Lobel, Esq. for Queens Boulevard Spa Corp. dba Sky Athletic, lessee.

SUBJECT - Application December 8, 2003 - under Z.R. §72-21 to permit the proposed expansion of existing social security offices, and the addition of school by adding a second floor, to an existing one story building, located in an M1-1 zoning district, which does not comply with the zoning requirements for Use Group and floor area, and is contrary to Z.R. §42-00, §43-12 and §43-122.

PREMISES AFFECTED - 6023 Fort Hamilton Parkway, a/k/a 6013/23 Fort Hamilton Parkway, a/k/a 6012/24 Tenth Avenue, and a/k/a 973/83 61st Street, northeast corner, Block 5715, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES - None.

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

9-04-BZ

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

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

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

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Marvin Mitzner.

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for deferred decision.

138-04-BZ

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

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

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit part of the cellar and ground level of an existing two story building within an R7-1/C1-2 district to be occupied as physical cultural establishment.

PREMISES AFFECTED - 99-01/23 Queens Boulevard, between 66th Road and 67th Avenue, Block 2118, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

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

381-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Hamilton G.S. Realty, owner.

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

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

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Elisa B. Hwu and Simcha Felder.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

150-04-BZ

APPLICANT - The Agusta Group, for Shun K. Fung, owner.

SUBJECT - Application August 3, 2004 - under Z.R. §72-20 to permit the proposed construction of a mixed-use residential and commercial building, within an M1-5 zoning district, which does not permit residential use, and has a non-complying front wall, is contrary to Z.R. §42-10 and §43-43.

PREMISES AFFECTED - 129 Elizabeth Street, west side, 60'-5' south of Broome Street, Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Shun K. Fung and Sol Korman.

For Opposition: Philip Grossman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for decision, hearing closed.

187-04-BZ

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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 of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

293-04-BZ

APPLICANT - Eric Palatnik, P.C., for Torah Academy For Girls, owner.

SUBJECT - Application August 25, 2004 - under Z.R. §72-21 in an R3-1 district, approval sought to enlarge an existing Yeshiva (Torah Academy High School for Girls). It is proposed to add four classrooms, bringing the total number of classrooms to 22; a new multi-purpose room, and the enlargement of an existing auditorium/gymnasium/multi-purpose room. The application seeks waivers from floor area, wall height, side yard, rear yard and sky exposure plane requirements.

PREMISES AFFECTED - 610 Lanett Avenue, north west side of Lanett Avenue, 200' east of Beach 8th Street, Block 15596, Lot 7, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Eric Palatnik and David Shteierman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for decision, hearing closed.

296-04-BZ

APPLICANT - Sheldon Lobel, P.C., for 135 Orchard Street, Co., LLC, owner.

SUBJECT - Application August 30, 2004 - under Z.R. §72-21 to permit the legalization of the residential uses on floors two through five of an existing five-story mixed use building located in a C6-1 zoning district.

PREMISES AFFECTED - 135 Orchard Street, (a/k/a 134 Allen Street), between Delancey and Rivington Streets, Block 415, Lot 69, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES -

230-04-BZ

APPLICANT - Sheldon Lobel, P.C., for La Perst, LLC, owner.

SUBJECT - Application June 16, 2004 - under Z.R. §72-21 to permit the legalization of the residential conversion of a building located in an M1-2 zoning district.

PREMISES AFFECTED - 260 Moore Street, between White Street and Bogart Street), Block 3110, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane, Harold Weinberg, Jack Freeman and Sheldon Lobel.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

For Applicant: Irving Minkin and Sheila Saks.

For Opposition: Emanuel Eichler.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for continued hearing.

319-04-BZ

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, for Joseph De Simone, owner.

SUBJECT - Application September 20, 2004 - under Z.R. §72-21 to permit, in an R5 (Infill) district, approval sought to erect a four-story, 45 foot eight inch high, residential building on a currently unimproved lot consisting of 25,413 SF. There are proposed 39 dwelling units with 28 parking spaces in the cellar. The proposed building is non-compliant to wall height and total height requirements.

PREMISES AFFECTED - 35 McDonald Avenue, a/k/a 25/47 McDonald Avenue, east side, between 20th Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Lance I Michaels and Steven Sinacori.

For Opposition: John Keefe-State Assemblyman, Guy Lingley, Robbin Bloch, Peter Levinson, Holly Sears, Shirley Chetter, Barbara Johnson,

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

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Pasquale Pacifico, Executive Director.

Adjourned: 4:15 P.M.