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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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Volume 91, No. 7

February 16, 2006

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## DIRECTORY

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

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139-05-A	972 Bayside Walk, Queens
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# DOCKETS

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New Case Filed Up to February 7, 2006  
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**20-06-A**

38 Kildare Walk, W/S Kildare Walk, Breezy Point Boulevard, Block 16350, Lot 400, Borough of **Queens, Community Board: 14**. General City Law Section 36, Article 3-Proposed reconstruction and enlargement of single family dwelling not fronting a mapped street, upgrade existing non-conforming private disposal system in the bed of the service road contrary to Building Dept. policy  
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**21-06-A**

28 Rockaway Point Boulevard, N/S 85.09' East of Beach 179th Street, Block 16340, Lot p/o 50, Borough of **Queens, Community Board: 14**. General City Law Section 35, Article 3-Propose to construct a second story on a home which lies within the bed of a mapped street (Rockaway Point Boulevard A/K/A State Road).  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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**APRIL 4, 2006, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, April 4, 2006, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## **SPECIAL ORDER CALENDAR**

### **540-53-BZ**

APPLICANT – Joseph P. Morsellino, Esq., for Marbridge Realty Co., Inc., owner.

SUBJECT – Application October 25, 2005 – Extension of Term/Waiver for an existing parking lot accessory to a commercial building. The premise is located in a C2-4 & R3-1 zoning district.

PREMISES AFFECTED – 87-17 111<sup>th</sup> Street, Block 9301, Lots 124, 125, Borough of Queens.

**COMMUNITY BOARD #9Q**

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### **295-77-BZ**

APPLICANT – Walter T. Gorman, P.E., for Alfred M. Lama, Barnik Associates, LLC, owner.

SUBJECT – Application September 27, 2005 – Extension of Term/Waiver of a variance Z.R. §72-21 for the continued use of a gasoline service station which expired on October 1, 2003 for an additional ten (10) years; and an amendment to legalize the conversion of a portion of the service building from office/sales and attendant's area to an accessory convenience store, the erection of a trash enclosure, air pump tower and car vacuum, a public telephone and wooden planter boxes. The premise is located in an C1-2 in R4 zoning district.

PREMISES AFFECTED – 87-10 Northern Boulevard, southside blockfront between 87<sup>th</sup> & 88<sup>th</sup> Streets, Block 1435, Lot 1, Borough of Queens.

**COMMUNITY BOARD #3Q**

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### **545-78-BZ**

APPLICANT – Petraro & Jones, LLP, for Cotaldo Vasapolli, owner.

SUBJECT – Application January 15, 2004 – Reopening for an extension of the term of a variance for a commercial vehicle storage establishment in an R4 zoning district. The term expired on March 27, 2002. The application also seeks a waiver of the Board's rules of practice and procedure for an extension of term application filed more than one year, but less than two years, following expiration of the term. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 901/903 Pine Street, West side of Pine Street, 250 feet north of the intersection of Pine Street and Cozine Avenue, Brooklyn

**COMMUNITY BOARD #5BK**

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## **APPEALS CALENDAR**

### **364-05-A & 365-05-A**

APPLICANT - Sheldon Lobel, P.C., for Hamida Realty, Inc., owner.

SUBJECT - Application filed on December 19, 2005 - An appeal seeking a determination that that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior R5 zoning district. Current Zoning District is R4A.

PREMISES AFFECTED – 87-30 & 87-32 167<sup>th</sup> Street, 252' north of the corner formed by the intersection of Hillside Avenue and 167<sup>th</sup> Street, Block 9838, Lots 114 & 116, Borough of Queens.

**COMMUNITY BOARD #8Q**

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**APRIL 4, 2006, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing,

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# CALENDAR

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Tuesday afternoon, April 4, 2006, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## ZONING CALENDAR

### **274-04-BZ**

APPLICANT – Harold Weinberg, P.E., for Dr. Elena Starosta, owner.

SUBJECT – Application August 6, 2004 - Under Z.R.§72-21 Variance under Section 72-21, in an R4 district and on a lot consists of 2,470 SF, permission sought to legalize the extension of a medical use to the second floor on an existing building consisting of two-stories. The use is contrary to side yard requirements

PREMISES AFFECTED – 2114 Gravesend Neck Road, south side, 63'-7½" south of East 22nd Street, Block 7381, Lot 101, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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### **340-05-BZ**

APPLICANT – The Law office of Fredrick A. Becker, for Chelsea Eighth L.P., owner; TSI West 16<sup>th</sup> Street dba New York Sports Club, lessee.

SUBJECT – Application filed November 29, 2005 - Variance under Z.R.§72-21. In C1-6A, C6-2A, R8B districts, permission sought to legalize a physical culture establishment (PCE), located in the portions of the cellar and first floor of an existing 22-story mixed-use building. The proposed use is contrary to district use regulations.

PREMISES AFFECTED – 270 West 17<sup>th</sup> Street, aka 124-128 Eighth Avenue, easterly sided of Eighth Avenue between 17<sup>th</sup> Street and West 16<sup>th</sup> Streets, Block 766, Lots 1101, 1102, Borough of Manhattan.

**COMMUNITY BOARD #4M**

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community facility use on the 1<sup>st</sup> and 2<sup>nd</sup> floors in an R7A Zoning District; contrary to ZR 23-145.

PREMISES – 325 East 101<sup>st</sup> Street, between First and Second Avenues, Block 1673, Lot 15, Borough of Manhattan.

**COMMUNITY BOARD #11M**

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*Jeff Mulligan, Executive Director*

### **349-05-BZ**

APPLICANT – Law Offices of Howard Goldman, LLC, for Church of the Resurrection, owner.

SUBJECT - Zoning Variance (bulk) pursuant to ZR 72-21 to allow a proposed eight (8) story residential building with

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## REGULAR MEETING TUESDAY MORNING, FEBRUARY 7, 2006 10:00 A.M.

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

Absent: Commissioner Collins.

The motion is to approve the minutes of regular meeting of the Board held on Tuesday morning and afternoon, November 22, 2005, as printed in the bulletin of December 1, 2005, Vol. 90, No. 49. If there be no objection, it is so ordered.

## SPECIAL ORDER CALENDAR

### 262-99-BZ

APPLICANT – Sheldon Lobel, P.C., for A.R.E. Group Inc., owner.

SUBJECT – Application October 12, 2005 – Application for a waiver of Rules of Procedure for an extension of time to complete construction and to obtain a certificate of occupancy which expired September 12, 2004.

PREMISES AFFECTED – 230-234 East 124<sup>th</sup> Street, south side of 124<sup>th</sup> Street between Second Avenue and Third Avenue, Block 1788, Lots 35 & 37, Borough of Manhattan.

### COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**ACTION OF THE BOARD** – Laid over to February 28, 2006, at 10 A.M., for decision, hearing closed.

### 54-01-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Michael Koegel and Francesca Koegel, owners.

SUBJECT – Application December 13, 2005 – request for an extension of time to complete construction and obtain a new certificate of occupancy which expires on January 8, 2006.

PREMISES AFFECTED – 2508 Avenue J, between Bedford Avenue and East 26<sup>th</sup> Street, Block 7607, Lot 43, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**ACTION OF THE BOARD** – Laid over to February 28, 2006, at 10 A.M., for decision, hearing closed.

### 136-01-BZ

APPLICANT – Eric Palatnik, P.C., for Cel-Net Holding, Inc., owner.

SUBJECT – Application November 23, 2005 – Reopening for an amendment to the resolution to extend the time to complete construction which expires June 11, 2006.

PREMISES AFFECTED – 11-11 44<sup>th</sup> Drive, north side between 11<sup>th</sup> and 21<sup>st</sup> Street, Block 447, Lot 13, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to March 7, 2006, at 10 A.M., for continued hearing.

## APPEALS CALENDAR

### 139-05-A

APPLICANT – Valentino Pompeo for Breezy Point Cooperative, owner Dimitrios Tzentelis, lessee.

SUBJECT – Application June 6, 2005 – Proposed enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED – 972 Bayside Walk, W/S Bayside Walk west of Rockaway Point Boulevard, Block 16350 part of Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Valentino Pompeo.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated June 3, 2005, acting on Department of Buildings Application No. 402023877, reads:

- “A1- The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York:
- A) Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
  - B) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space [and] is contrary to Section

# MINUTES

27-291 of the Administrative Code.”; and

WHEREAS, a public hearing was held on this application on February 7, 2006 after due notice by publication in the *City Record*, on which date the matter was closed and decided; and

WHEREAS, by letter dated December 15, 2005, the Fire Department states that it has reviewed the subject application and has no objections; and

WHEREAS, accordingly, the Board finds that 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 June 3, 2005, acting on Department of Buildings Application No.402023877, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received June 6, 2005”– (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

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### 300-05-A

APPLICANT – Zygmunt Staszewski for Breezy Point Cooperative, owner Ed Keisel, lessee.

SUBJECT – Application October 6, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law and the upgrade of an existing private disposal system is contrary to the Buildings Department Policy.

PREMISES AFFECTED – 995 Bayside, East of Bayside, 0 ft North of West Market Street, Block 16350 part of Lot 300, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Michael Harley.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated September 09, 2005, acting on Department of Buildings Application No. 402178751, reads:

“A1- The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York:

A) Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.

B) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space [and] is contrary to Section 27-291 of the Administrative Code.

A2- The proposed upgrade of a private disposal system is contrary to Department of Buildings policy;” and

WHEREAS, a public hearing was held on this application on February 7, 2006 after due notice by publication in the *City Record*, on which date the matter was closed and decided; and

WHEREAS, by letter dated December 29, 2005, the Fire Department states that it has reviewed the subject application and has no objections; and

WHEREAS, accordingly, the Board finds that 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 September 09, 2005, acting on Department of Buildings Application No. 402178751, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received October 6, 2005”–(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

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### 316-05-A

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APPLICANT – Zygmunt Staszewski for Breezy Point Cooperative, owner Tim Reid, lessee.

SUBJECT – Application October 28, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law and the upgrade of an existing private disposal system is contrary to the Buildings Department Policy.

PREMISES AFFECTED – 3 West Market Street, South of West Market Street 15.24 Feet of Beach 204<sup>th</sup> Street Block 16350 part of Lot 300, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Michael Harley.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated October 18, 2005, acting on Department of Buildings Application No. 402165731, reads:

“A1- The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York:

- A) Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
- B) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space [and] is contrary to Section 27-291 of the Administrative Code.

A2- The proposed upgrade of a private disposal system is contrary to Department of Buildings policy”; and

WHEREAS, a public hearing was held on this application on February 7, 2006 after due notice by publication in the *City Record*, on which date the matter was closed and decided; and

WHEREAS, by letter dated December 29, 2005, the Fire Department states that it has reviewed the subject application and has no objections; and

WHEREAS, accordingly, the Board finds that 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 October 18, 2005, acting on Department of Buildings Application No. 40216573, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received October 28, 2005”–(1) sheet; that the proposal shall

comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

## 335-05-A

APPLICANT – Gary Lenhart for Breezy Point Cooperative, owner; J. Mary Schumacher, lessee.

SUBJECT – Application November 23, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law and the upgrade of an existing private disposal system located in the bed of a service lane is contrary to the Buildings Department Policy.

PREMISES AFFECTED –3 Kildare Walk, E/S Kildare Walk 35.07 S/O Oceanside Avenue, Block 16350 part of Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated November 17, 2005 acting on Department of Buildings Application No. 402171948, reads:

“A1- The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York:

- A) Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
- B) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space [and] is contrary to Section 27-291 of the Administrative Code.

A2- The proposed upgraded private disposal system

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is in the bed of a service lane contrary to Department of Buildings policy;” and

WHEREAS, a public hearing was held on this application on February 7, 2006 after notice by publication in the *City Record*, on which date the matter was closed and decided; and

WHEREAS, by letter dated December 15, 2005, the Fire Department states that it has reviewed the subject application and has no objections; and

WHEREAS, accordingly, the Board finds that 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 November 17, 2005, acting on Department of Buildings Application No. 402171948, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received January 24, 2006” – (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

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## 162-05-A

APPLICANT – Jay Segal, Esq., Greenberg & Traurig, LLP, for William R. Rupp, owner.

SUBJECT - Application filed July 15, 2005 - to appeal a final determination from the Department of Buildings dated June 15, 2005 in which they contend that the a privacy wall must be demolished because it exceeds the height limitation set by the Building Code and that the project engineer has failed to show that the Wall has been engineered and built according to code.

PREMISES AFFECTED - 19-21 Beekman Place, a/k/a 461 East 50<sup>th</sup> Street, located at east side of Beekman Place between East 50<sup>th</sup> Street and East 51<sup>st</sup> Street, Block 1361, Lot 117, Borough of Manhattan.

### COMMUNITY BOARD#6BK

APPEARANCES –

For Applicant: Jay Segal.

For Opposition: Stephen Rizzo.

For Administration: Zanine Gaylard.

**ACTION OF THE BOARD** – Laid over to April 4, 2006, at 10 A.M., for continued hearing.

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## 189-05-A

APPLICANT – James Periconi for Olive Freud, Hudson Waterfront Associates, owners et al.

SUBJECT – Application filed on September 7, 2005 – An appeal challenging the Department of Building’s issuance of Temporary Certificate of Occupancies for 240 Riverside Boulevard (Building A) before the completion of the roadway connection between 72<sup>nd</sup> Street and Riverside Boulevard.

PREMISES AFFECTED – 240 Riverside Boulevard, (Building A), Block 1171, Lot 120, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: James Periconi, Olive Freud and Thomas Caffrey.

For Opposition: Steven Russo for Hudson Waterfront.

For Administration: Lisa Orrantia, Department of Buildings.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**ACTION OF THE BOARD** – Laid over to March 14, 2006, at 10 A.M., for decision, hearing closed.

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*Jeffrey Mulligan, Executive Director.*

Adjourned: P.M.

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**REGULAR MEETING  
TUESDAY AFTERNOON, FEBRUARY 7, 2006  
1:30 P.M.**

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

Absent: Commissioner Collins.

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**ZONING CALENDAR**

**164-04-BZ**

APPLICANT – Moshe M. Friedman, P.E., for 2241 Westchester Avenue Realty Corp., owner; Gotham City Fitness LLC, lessee.

SUBJECT – Application April 22, 2004 – under Z.R. §73-36 to permit the proposed physical culture establishment, located on the second floor of an existing two story commercial building, located in C2-6 within an R6 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED – 2241 Westchester Avenue, a/k/a 2101 Glede Avenue, Block 3963, Lot 57, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

**APPEARANCES –**

For Applicant: Moshe M. Friedman.

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

**THE VOTE TO GRANT –**

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**THE RESOLUTION –**

WHEREAS, the decision of the Bronx Borough Commissioner, dated May 1, 2004, acting on Department of Buildings Application No. 200827132, reads, in pertinent part:

“Proposal of Physical Culture or Health Establishment as per section 12-10 definition of the Zoning Resolution. Therefore it must comply with the regulations of Sec. 73-36 of ZR”; and

WHEREAS, this is an application under Z.R. §§73-36 and 73-03, to permit, within a C2-2(R6) zoning district, the legalization of an existing physical culture establishment (“PCE”) located on the second story of a two-story commercial building, contrary to Z.R. § 32-10; and

WHEREAS, a public hearing was held on this application on January 10, 2006, after due notice by publication in *The City Record*, and then to decision on February 7, 2006; and

WHEREAS, Community Board 10, Bronx, recommends disapproval of this application, because it is for a legalization of an existing facility; and

WHEREAS, the New York City Fire Department has

indicated to the Board that is has no objection to this application; and

WHEREAS, the subject site is located on the northwest corner of Westchester and Glebe Avenues, and has a lot area of 22,771 sq. ft.; and

WHEREAS, the subject PCE will occupy 13,836.76 sq. ft. of floor area on the second floor; and

WHEREAS, the applicant represents that the PCE will provide weight equipment, aerobics, and martial arts, and massage services by licensed massage professionals; and

WHEREAS, the applicant states that an approved interior fire alarm system will be installed in the entire PCE space on the second floor, with the addition of smoke detectors, manual pull stations, local audible and visual alarms, and be connected to a FDNY-approved Central Station; and

WHEREAS, the PCE will have the following hours of operation: Monday through Friday 5AM to 12AM and Saturday and Sunday 7AM to 9PM; and

WHEREAS, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. §§ 73-36 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement 04-BSA-170X, dated November 7, 2005; and

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

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

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environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-03, to permit, within a C2-2(R6) zoning district, the legalization of an existing physical culture establishment located on the second story of a two-story commercial building, contrary to Z.R. §32-10; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received January 23, 2006"- (2) sheets and on further condition:

THAT the term of this grant shall from July 15, 2004, expiring on July 15, 2014;

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

THAT the hours of operation shall be limited to Monday through Friday 5AM to 12AM and Saturday and Sunday 7AM to 9PM;

THAT all massages shall be performed only by practitioners with valid and current NYS massage licenses;

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

THAT a certificate of occupancy shall be obtained within one year from the date of this grant;

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

THAT fire safety measures, including a sprinkler system, shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

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## 280-04-BZ

APPLICANT - Gerald Caliendo ,RA. for the North Shore Tennis & Racquet Club, owner.

SUBJECT - Application August 10, 2004 - pursuant to Section Z.R.§72-21 to permit the proposed two temporary air supported structures to cover 10 tennis courts accessory to

non-commercial club contrary to Z.R. §§52-22 and 52-30 and also located in the bed of a mapped street contrary to General City Law Section 35 in an R-2A zoning district.

PREMISES AFFECTED - 34-28 214<sup>th</sup> Place west side of 214<sup>th</sup> Place distant 104.27 feet south of corner formed by intersection of 214<sup>th</sup> Place and 33<sup>rd</sup> Road, Block 6118, Lot 21, Borough of Queens.

## COMMUNITY BOARD #11

APPEARANCES – None.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decisions of the Queens Borough Commissioner, dated November 17, 2005 and November 21, 2005, acting on Department of Buildings Application No. 440174380, read, in pertinent part:

“Enclosure of tennis court by an air supported structure in R2A zoning district is contrary to section 52-22 Z.R. – Structural Alterations and 52-30 – Change of Non-Conforming Use.”; and

WHEREAS, these are applications made under Z.R. §72-21, to permit, in a R2A zoning district, the installation of a temporary air supported structure over one existing group of four tennis courts and another over a separate existing group of six tennis courts, all located within a lawfully non-conforming tennis club, which is contrary to Z.R. §§52-22 and 52-30; and

WHEREAS, these applications are being brought concurrently with two companion General City Law §35 waiver applications, under BSA Cal. Nos. 281-04-A and 283-04-A, to allow construction within the bed of mapped but unopened streets that affect the property, decided the date hereof; and

WHEREAS, a public hearing was held on this application on December 13, 2005 after due notice by publication in the *City Record*, and then to decision on February 7, 2005; and

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

WHEREAS, Community Board No. 11, Queens, recommends conditional approval of this application; certain of said conditions are reflected below; and

WHEREAS, the Queens Borough President also recommends approval of this application; and

WHEREAS, the premises is a large, approximately 113,856 sq. ft. site bounded by 33<sup>rd</sup> Road to the north, 214<sup>th</sup> Place to the east, 34<sup>th</sup> Road to the south (which is mapped but not open), and 214<sup>th</sup> Street to the west (which is mapped but not open); and

WHEREAS, the site is currently developed as a Use Group 4 not-for-profit tennis club (the “Club”), with a two-story clubhouse, 14 open tennis courts, a squash court and a

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badminton court; and

WHEREAS, the applicant proposes to enclose with temporary air supported structures two groups of tennis courts: one group of four tennis courts located in the middle of the site partially within 214<sup>th</sup> Street (282-04-BZ) and one group of six tennis courts located parallel to and partially within 34<sup>th</sup> Road (280-04-BZ); and

WHEREAS, the proposed structures will be lighted enclosures rising to a height of 36 ft., and will be used only from October 1 to April 30; and

WHEREAS, based upon its review of the record, the Board observes that the site has been historically developed with a non-conforming tennis club since 1926, with numerous tennis courts and only a single club building; and

WHEREAS, the Board also observes in order for the Club to meet its programmatic need of providing services that improve the well-being and physical health of its current and future members, provision of year-round tennis services is necessary; and

WHEREAS, in support of the contention that the lack of year round tennis is compromising the Club's mission, the applicant has submitted accounting statements that reflect the Club's losses in recent years; and

WHEREAS, the applicant represents that without the structures, the Club would continue to lose revenue; and

WHEREAS, while the two proposed enclosures will allow the Club to provide year-round tennis, structural improvements to lawful non-conforming uses such as the tennis courts are not allowed as of right; and

WHEREAS, accordingly, the Board finds that the unique condition mentioned above, namely the site's history of development with tennis courts, when considered in conjunction with the programmatic needs of the Club, create practical difficulties and unnecessary hardship in developing the entire site in strict compliance with applicable zoning provisions; and

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

WHEREAS, the applicant represents that the proposed variance, if granted, will not negatively impact the character of the community, nor impact adjacent residential uses; and

WHEREAS, the applicant states that the immediate area surrounding the site is characterized by one, two and three-story residential building, as well as some other community facilities; and

WHEREAS, in response to concerns of the Community Board, the applicant conducted a shadow study that showed that the proposed enclosures would not create significant shadow effects upon adjacent conforming uses; and

WHEREAS, at hearing, the Board inquired as to why the particular tennis courts were chosen to be enclosed, and expressed concern that other courts could be enclosed with less impact upon the residential neighbors; and

WHEREAS, the applicant stated that the enclosures were placed on particular courts because it was determined that it

would create the least impact on neighboring residential uses; and

WHEREAS, based upon 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 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 to the Club; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 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-027Q dated June 3, 2005 ; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under Z.R. § 72-21, to permit, in a R2A zoning district, the installation of a temporary air supported structure over one existing group of four tennis courts and another over a separate existing group of six tennis courts, all located within a lawful non-conforming tennis club, which is contrary to Z.R. §§ 52-22 and 52-30; *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 February 6, 2006"- (4) sheets; and *on further condition*:

THAT the enclosures shall only be used from October 1 to April 30;

THAT the hours of operation of tennis activity within the

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enclosures shall be from 7AM to 10PM Monday through Sunday;

THAT any air compressors will be located between tennis courts, away from adjacent residential uses, and shall be soundproofed;

THAT the enclosures shall be composed of material sufficient to prevent ambient light from affecting adjacent residential uses;

THAT all interior and exterior lighting shall be directed downwards and away from adjacent residential uses;

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

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

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## 281-04-A

APPLICANT - Gerald Caliendo ,RA. for the North Shore Tennis & Racquet Club, owner.

SUBJECT - Application August 10, 2004 - to permit the proposed two temporary air supported structures to cover 10 tennis courts accessory to non-commercial club contrary to Z.R. §§52-22 and 52-30 and also located in the bed of a mapped street contrary to General City Law Section 35 in an R-2A zoning district..

PREMISES AFFECTED - 34-28 214<sup>th</sup> Place west side of 214<sup>th</sup> Place distant 104.27 feet south of corner formed by intersection of 214<sup>th</sup> Place and 33<sup>rd</sup> Road, Block 6118, Lot 21, Borough of Queens.

### COMMUNITY BOARD #11Q

APPEARANCES – None.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**THE RESOLUTION** –

WHEREAS, the decisions of the Queens Borough Commissioner, dated November 17, 2005 and November 21, 2005, acting on Department of Buildings Application Nos. 401743805, read, in pertinent part:

“Enclosure of tennis court by an air supported structure in R2A zoning district is contrary to section 52-22 Z.R. – Structural Alterations and 52-30 – Change of Non-Conforming Use.”; and

WHEREAS, these are applications made under Z.R. §72-21, to permit, in a R2A zoning district, the installation of a temporary air supported structure over one existing group of four tennis courts and another over a separate existing group of six tennis courts, all located within a lawfully non-conforming tennis club, which is contrary to Z.R. §§ 52-22 and 52-30; and

WHEREAS, these applications are being brought concurrently with two companion General City Law §35 waiver applications, under BSA Cal. Nos. 281-04-A and 283-04-A, to allow construction within the bed of mapped but unopened streets that affect the property, decided the date hereof; and

WHEREAS, a public hearing was held on this application on December 13, 2005 after due notice by publication in the *City Record*, and then to decision on February 7, 2005; and

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

WHEREAS, Community Board No. 11, Queens, recommends conditional approval of this application; certain of said conditions are reflected below; and

WHEREAS, the Queens Borough President also recommends approval of this application; and

WHEREAS, the premises is a large, approximately 113,856 sq. ft. site bounded by 33<sup>rd</sup> Road to the north, 214<sup>th</sup> Place to the east, 34<sup>th</sup> Road to the south (which is mapped but not open), and 214<sup>th</sup> Street to the west (which is mapped but not open); and

WHEREAS, the site is currently developed as a Use Group 4 not-for-profit tennis club (the “Club”), with a two-story clubhouse, 14 open tennis courts, a squash court and a badminton court; and

WHEREAS, the applicant proposes to enclose with temporary air supported structures two groups of tennis courts: one group of four tennis courts located in the middle of the site partially within 214<sup>th</sup> Street (282-04-BZ) and one group of six tennis courts located parallel to and partially within 34<sup>th</sup> Road (280-04-BZ); and

WHEREAS, the proposed structures will be lighted enclosures rising to a height of 36 ft., and will be used only from October 1 to April 30; and

WHEREAS, based upon its review of the record, the Board observes that the site has been historically developed with a non-conforming tennis club since 1926, with numerous tennis courts and only a single club building; and

WHEREAS, the Board also observes in order for the Club to meet its programmatic need of providing services that improve the well-being and physical health of its current and future members, provision of year-round tennis services is necessary; and

WHEREAS, in support of the contention that the lack of year round tennis is compromising the Club’s mission, the applicant has submitted accounting statements that reflect the Club’s losses in recent years; and

WHEREAS, the applicant represents that without the structures, the Club would continue to lose revenue; and

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WHEREAS, while the two proposed enclosures will allow the Club to provide year-round tennis, structural improvements to lawful non-conforming uses such as the tennis courts are not allowed as of right; and

WHEREAS, accordingly, the Board finds that the unique condition mentioned above, namely the site's history of development with tennis courts, when considered in conjunction with the programmatic needs of the Club, create practical difficulties and unnecessary hardship in developing the entire site in strict compliance with applicable zoning provisions; and

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

WHEREAS, the applicant represents that the proposed variance, if granted, will not negatively impact the character of the community, nor impact adjacent residential uses; and

WHEREAS, the applicant states that the immediate area surrounding the site is characterized by one, two and three-story residential building, as well as some other community facilities; and

WHEREAS, in response to concerns of the Community Board, the applicant conducted a shadow study that showed that the proposed enclosures would not create significant shadow effects upon adjacent conforming uses; and

WHEREAS, at hearing, the Board inquired as to why the particular tennis courts were chosen to be enclosed, and expressed concern that other courts could be enclosed with less impact upon the residential neighbors; and

WHEREAS, the applicant stated that the enclosures were placed on particular courts because it was determined that it would create the least impact on neighboring residential uses; and

WHEREAS, based upon 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 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 to the Club; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 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-027Q dated June 3, 2005 ; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows;

Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under Z.R. §72-21, to permit, in a R2A zoning district, the installation of a temporary air supported structure over one existing group of four tennis courts and another over a separate existing group of six tennis courts, all located within a lawful non-conforming tennis club, which is contrary to Z.R. §§ 52-22 and 52-30; *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 February 6, 2006"- (4) sheets; and *on further condition*:

THAT the enclosures shall only be used from October 1 to April 30;

THAT the hours of operation of tennis activity within the enclosures shall be from 7AM to 10PM Monday through Sunday;

THAT any air compressors will be located between tennis courts, away from adjacent residential uses, and shall be soundproofed;

THAT the enclosures shall be composed of material sufficient to prevent ambient light from affecting adjacent residential uses;

THAT all interior and exterior lighting shall be directed downwards and away from adjacent residential uses;

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

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

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## 282-04-BZ

APPLICANT - Gerald Caliendo ,RA. for the North Shore Tennis & Racquet Club, owner.

SUBJECT - Application August 10, 2004 - pursuant to Section Z.R. §72-21 to permit the proposed two temporary air supported structures to cover 10 tennis courts accessory to non-commercial club contrary to Section 52-22ZR and also located in the bed of a mapped street contrary to General City Law Section 35 in an R-2A zoning district.

PREMISES AFFECTED - 34-28 214<sup>th</sup> Place west side of 214<sup>th</sup> Place distant 104.27 feet south of corner formed by intersection of 214<sup>th</sup> Place and 33<sup>rd</sup> Road, Block 6119,

Lots: 1& 32, Borough of Queens.

### COMMUNITY BOARD #11

APPEARANCES – None.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**THE RESOLUTION** –

WHEREAS, the decision of the Borough Commissioner, acting on Application No. 40174379, dated November 17, 2005, and November 21, 2005, which read in pertinent part:

“Proposed enclosure of tennis court by air supported structure is in the bed of mapped street. Comply with Section 35 of the General City Law, refer to the Board of Standards & Appeals for an Administrative Appeal”; and

WHEREAS, a public hearing was held on this application on December 13, 2005, after due notice by publication in the *City Record*, and then to decision on February 7, 2006 and

WHEREAS, these application were filed in conjunction with BSA Cal. Nos. 280-04-BZ and 282-04-BZ, which are variance applications under Z.R. §72-21, to permit the enclosures of tennis court by an air supported structures; the variance applications were also decided the date hereof; and

WHEREAS, Community Board 11, Queens recommends approval of this application with conditions; and

WHEREAS, by letter dated May 11, 2005, the Department of Environmental Protection (DEP) states that is has reviewed the above project, and requests that a 35 foot Sewer Corridor in the bed of mapped 214th Street between 33<sup>rd</sup> and 34<sup>th</sup> Rd be provided for the purpose of repair, maintenance and/or reconstruction of existing sewers and water mains; and

WHEREAS, DEP also requests that no permanent structures be built within this “Sewer Corridor”, and requires that the applicant amend the Drainage Plan #39 ASW(25) and #39AS-1(33) for 34<sup>th</sup> Road between 214<sup>th</sup> Street and 214<sup>th</sup> Place; and

WHEREAS to ensure the completion of the amendment to the Drainage Plan, the applicant shall submit a security deposit of \$5,000 to be held by the Comptroller’s Office until such time

as the Drainage Plan is amended to DEP ‘s satisfaction and

WHEREAS, by letter dated June 3, 2005 the applicant agrees to accept DEP’s conditions and will make the required amendments; and

WHEREAS, by letter dated February 23, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

*Therefore it is Resolved* that the decision of the decisions of the Borough Commissioner, acting on Application No. 401744379, dated November 17, 2005 and November 21, 2005, are modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received February 6, 2006”-(4) sheets; 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 a 35 foot Sewer Corridor in the bed of mapped 214th Street between 33<sup>rd</sup> and 34<sup>th</sup> Roads be provided for the purpose of repair, maintenance and /or reconstruction of existing sewers and water mains;

THAT no permanent structures may be built within this “Sewer Corridor”;

THAT the applicant amend the Drainage Plan #39 ASW(25) and #39AS-1(33) for 34<sup>th</sup> Road between 214<sup>th</sup> Street;

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

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

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

Adopted by the Board of Standards and Appeals February 7, 2006.

## 283-04-A

APPLICANT - Gerald Caliendo ,RA. for the North Shore Tennis & Racquet Club, owner.

SUBJECT - Application August 10, 2004 - pursuant to Section Z.R. §72-21 to permit the proposed two temporary air supported structures to cover 10 tennis courts accessory to non-commercial club contrary to Section 52-22ZR and also located in the bed of a mapped street contrary to General City Law Section 35 in an R-2A zoning district.

PREMISES AFFECTED - 34-28 214<sup>th</sup> Place west side of 214<sup>th</sup> Place distant 104.27 feet south of corner formed by intersection of 214<sup>th</sup> Place and 33<sup>rd</sup> Road, Block 6118, Lots: 1& 32, Block 6119, Lot 21, Borough of Queens.

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## COMMUNITY BOARD #11

APPEARANCES – None.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**THE RESOLUTION** –

WHEREAS, the decision of the Borough Commissioner, acting on Application No. 401743798, dated November 17, 2005, and November 21, 2005, which read in pertinent part:

“Proposed enclosure of tennis court by air supported structure is in the bed of mapped street. Comply with Section 35 of the General City Law, refer to the Board of Standards & Appeals for an Administrative Appeal”; and

WHEREAS, a public hearing was held on this application on December 13, 2005, after due notice by publication in the *City Record*, and then to decision on February 7, 2006 and

WHEREAS, these application were filed in conjunction with BSA Cal. Nos. 280-04-BZ and 282-04-BZ, which are variance applications under Z.R. §72-21, to permit the enclosures of tennis court by an air supported structures; the variance applications were also decided the date hereof; and

WHEREAS, Community Board 11, Queens recommends approval of this application with conditions; and

WHEREAS, by letter dated May 11, 2005, the Department of Environmental Protection (DEP) states that is has reviewed the above project, and requests that a 35 foot Sewer Corridor in the bed of mapped 214th Street between 33<sup>rd</sup> and 34<sup>th</sup> Rd be provided for the purpose of repair, maintenance and/or reconstruction of existing sewers and water mains; and

WHEREAS, DEP also requests that no permanent structures be built within this “Sewer Corridor”, and requires that the applicant amend the Drainage Plan #39 ASW(25) and #39AS-1(33) for 34<sup>th</sup> Road between 214<sup>th</sup> Street and 214<sup>th</sup> Place; and

WHEREAS to ensure the completion of the amendment to the Drainage Plan, the applicant shall submit a security deposit of \$5,000 to be held by the Comptroller’s Office until such time as the Drainage Plan is amended to DEP’s satisfaction and

WHEREAS, by letter dated June 3, 2005 the applicant agrees to accept DEP’s conditions and will make the required amendments; and

WHEREAS, by letter dated February 23, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

*Therefore it is Resolved* that the decision of the decisions of the Borough Commissioner, acting on Application No. 401743798, dated November 17, 2005 and November 21, 2005, are modified under the power vested in the Board by Section 35

of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received February 6, 2006”-(4) sheets; 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 a 35 foot Sewer Corridor in the bed of mapped 214th Street between 33<sup>rd</sup> and 34<sup>th</sup> Roads be provided for the purpose of repair, maintenance and /or reconstruction of existing sewers and water mains;

THAT no permanent structures may be built within this “Sewer Corridor”;

THAT the applicant amend the Drainage Plan #39 ASW(25) and #39AS-1(33) for 34<sup>th</sup> Road between 214<sup>th</sup> Street;

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

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

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

Adopted by the Board of Standards and Appeals February 7, 2006.

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## 40-05-BZ

APPLICANT – Petraro & Jones for Rafael Sassouni, owner; Graceful Services, Inc., lessee.

SUBJECT - Application April 21, 2005 – under Z.R. §73-36 to permit a legalization of a physical cultural establishment to be located on the second floor of four story mixed use building. The PCE use will contain 285 square feet to be used in conjunction with an existing physical cultural establishment on the second floor (988 Square feet )located at 1097 Second Avenue, Manhattan.

PREMISES AFFECTED – 1095 Second Avenue, west side of Second Avenue , 60.5 feet south of intersection with East 58<sup>th</sup> Street, Block1331, Lot 25, Borough of Manhattan.

## COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Steven Simich.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**THE RESOLUTION** –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated August 10, 2005, acting on Department of Buildings Application No. 103997837, reads, in pertinent

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part:

“Proposed physical culture establishment is not permitted in C2-8 District (ZR 32-31)”;

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C2-8 zoning district in the Special Transit Land Use District (“TA”), the legalization of an existing physical culture establishment (“PCE”) located on the second story of a four-story commercial building, contrary to Z.R. § 32-10; and

WHEREAS, a public hearing was held on this application on December 6, 2005, after due notice by publication in *The City Record*, with a continued hearing on January 24, 2006, and then to decision on February 7, 2006; and

WHEREAS, Community Board 6, Manhattan, recommends conditional approval of this application; said condition was that a connection between the subject PCE and an existing adjacent PCE be provided; and

WHEREAS, the New York City Fire Department has indicated to the Board that it has no objection to this application; and

WHEREAS, the subject site is located on the western side of Second Avenue, 60 ft. south of the intersection with East 58<sup>th</sup> Street, and has a lot area of 2,400 sq. ft.; and

WHEREAS, the subject PCE will occupy 825 sq. ft. of floor area on the second floor; and

WHEREAS, the applicant represents that the subject PCE is located adjacent to another second-floor PCE at 1097 Second Avenue, a special permit for which was granted by the Board in 2004; and

WHEREAS, the applicant represents that the subject PCE will be connected to the adjacent PCE (said connection has been approved by DOB), and that the two PCEs are operated by the same operator; and

WHEREAS, at hearing, the Board expressed concern about the location of the PCE in what was formerly an apartment and an office, on the same floor as existing apartments; and

WHEREAS, at the request of the Board, the applicant obtained from DOB a reconsideration indicating DOB acceptance of the location of the PCE; and

WHEREAS, the applicant represents that the PCE will provide massage services by licensed massage professionals; and

WHEREAS, the applicant states that an approved interior fire alarm system will be installed in the entire PCE space on the second floor, with the addition of smoke detectors, manual pull stations, local audible and visual alarms, and be connected to a FDNY-approved Central Station; and

WHEREAS, the PCE will have the following hours of operation: 10AM to 10PM daily; and

WHEREAS, the applicant represents that the PCE will not conflict with any of the applicable regulations of the TA; and

WHEREAS, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent

properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. §§73-36 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement 05-BSA-097M, dated February 24, 2005; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-03, to permit, within a C2-8 zoning district in the Special Transit Land Use District, the legalization of an existing physical culture establishment located on the second story of a four-story commercial building, contrary to Z.R. § 32-10; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked “Received January 26, 2006”-(4) sheets; and *on further condition*:

THAT the term of this grant shall be from March 1, 2005, expiring on September 26, 2011;

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

THAT the hours of operation shall be limited to 10AM

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to 10PM daily;

THAT all massages shall be performed only by practitioners with valid and current NYS massage licenses;

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

THAT a certificate of occupancy shall be obtained within one year from the date of this grant;

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

THAT fire safety measures, including a sprinkler system, shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

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**93-05-BZ**

APPLICANT – Eric Palatnik, P.C., for Esther Cynamon, owner.

SUBJECT – Application November 4, 2005 – under Special Permit Z.R. §73-36. Enlargement of a single family home to vary section Z.R. §23-141 for floor area and open space. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 2621 Avenue M, corner of Avenue “M” and East 27<sup>th</sup> Street, Block 7644, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Eric Palatnik.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**THE RESOLUTION** –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 8, 2005, acting on Department of Buildings Application No. 301909683, reads, in pertinent part:

“ZR 23-141 Floor Area is greater than allowed. ZR 23-141 Open Space is less than required”; and

WHEREAS, this is an application under Z.R. §§ 73-622

and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio (FAR) and Open Space Ratio (OSR), contrary to Z.R. § 23-141; and

WHEREAS, a public hearing was held on this application on January 10, 2006, after due notice by publication in *The City Record*, and then to decision on February 7, 2006; and

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

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

WHEREAS, the subject lot is located on the corner of Avenue M and East 27<sup>th</sup> Street; and

WHEREAS, the subject lot has a total lot area of 4,000 sq. ft.; and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,177 sq. ft. (0.54 Floor Area Ratio or “FAR”) to 3,231 sq. ft. (0.74 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will decrease the OSR from 140% to 106%; the minimum required OSR is 150%; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio and Open Space Ratio, contrary to Z.R. § 23-141; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received January 25, 2006”- (11) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

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

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THAT the total FAR on the premises shall not exceed 0.74;

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

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

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## 171-05-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP for Equinox 568 Broadway Inc., lessee, 568 Broadway Properties LLC, owner.

SUBJECT – Application July 28, 2005 – Special Permit: Under ZR Section 73-36 an approval sought to permit the operation of a physical cultural establishment located on a portion of the cellar, portion of the first floor, part of the mezzanine, entire second floor, and a portion of the third floor of a twelve story commercial building. The PCE will contain 26,712 square feet of floor area. The site is located in a M1-5B Zoning District (SOHO Cast Iron).

PREMISES AFFECTED – 568 Broadway aka 69-79 Prince Street and 108-112 Crosby Streets, Block 512, Lot 11, Borough of Manhattan.

## COMMUNITY BOARD #2M

APPEARANCES – None.

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

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

## THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 18, 2005, acting on Department of Buildings Application No. 104165154, reads, in pertinent part:

“As specified under the provisions of Section 73-36 of the Zoning Resolution, physical culture establishments, not permitted under Use Group 9, require a special permit to be granted by the Board of Standards and Appeals.”; and

WHEREAS, this is an application under Z.R. §§73-36 and 73-03, to permit, within a M1-5B zoning district within the Special SoHo Cast Iron District, a physical culture establishment (“PCE”) located in the cellar and lower floors of a twelve-story commercial building, contrary to Z.R. § 32-10; and

WHEREAS, a public hearing was held on this application on January 31, 2006, after due notice by publication in *The City Record*, and then to decision on February 7, 2006; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the New York City Fire Department has indicated to the Board that it has no objection to this application; and

WHEREAS, a certificate of appropriateness has been obtained from the Landmarks Preservation Commission; and

WHEREAS, the subject site is located on the northeast corner of Broadway and Prince Street, and has a lot area of 23,605 sq. ft.; and

WHEREAS, the subject PCE (an Equinox gym) will occupy approximately 26,712 sq. ft. of floor area; and

WHEREAS, specifically, the applicant represents that the PCE will be located in portions of the cellar (1,236 sq. ft.), first floor (1,496 sq. ft.), mezzanine (413 sq. ft.), and third floor (3,756 sq. ft.), as well as the entire second floor (19,802 sq. ft.); and

WHEREAS, the applicant represents that the PCE will provide gym equipment, aerobics, other classes in physical improvement and massage services by licensed massage professionals; and

WHEREAS, the applicant states that an approved interior fire alarm system will be installed in the entire PCE space, with the addition of smoke detectors, manual pull stations, local audible and visual alarms, and be connected to a FDNY-approved Central Station; and

WHEREAS, the PCE will have the following hours of operation: Monday through Thursday 5:30AM to 11PM, Friday 5:30AM to 10PM, and Saturday and Sunday 8AM to 9PM; and

WHEREAS, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. §§73-36 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental

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Assessment Statement 06-BSA-005M, dated July 29, 2005; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under Z.R. §§73-36 and 73-03, to permit, within a M1-5B zoning district within the Special SoHo Cast Iron District, a physical culture establishment located in the cellar and lower floors of a twelve-story commercial building, contrary to Z.R. §32-10; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received February 1, 2006"- (9) sheet; and *on further condition*:

THAT the term of this grant shall be for ten years, from February 7, 2006 to February 7, 2016;

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

THAT the hours of operation shall be limited to Monday through Thursday 5:30AM to 11PM, Friday 5:30AM to 10PM, and Saturday and Sunday 8AM to 9PM;

THAT all massages shall be performed only by practitioners with valid and current NYS massage licenses;

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

THAT a certificate of occupancy shall be obtained within one year from the date of this grant;

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

THAT fire safety measures, including a sprinkler system, shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and approved by DOB;

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

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

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**172-05-BZ**

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP for Equinox Joralemon Street, Inc., lessee, 50 Court Street Associates, owner.

SUBJECT – Application July 28, 2005 – Special Permit: Under ZR Section 73-36 an approval sought to permit the operation of a physical cultural establishment located on a portion of the ground floor, part of the mezzanine, entire second, third and fourth floors of a twelve story commercial building. The PCE use will contain 31, 538 square feet of floor area. The site is located in a C5-2 A Zoning District(DB).

PREMISES AFFECTED – 50 Court Street aka 194-204 Joralemon Street, southwest corner of Court Street and Joralemon Street, Block 265, Lot # 43, Borough of Brooklyn.  
**COMMUNITY BOARD #2BK**

APPEARANCES – None.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 25, 2005, acting on Department of Buildings Application No. 301981470, reads, in pertinent part:

“As specified under the provisions of Section 73-36 of the Zoning Resolution, physical culture establishments, not permitted under Use Group 9, require a special permit to be granted by the Board of Standards and Appeals.”; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C5-2A zoning district in the Special Downtown Brooklyn District, a physical culture establishment (“PCE”) located in the ground and lower floors of a twelve-story commercial building, contrary to Z.R. § 32-10; and

WHEREAS, a public hearing was held on this application on January 31, 2006, after due notice by publication in *The City Record*, and then to decision on February 7, 2006; and

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

WHEREAS, the New York City Fire Department has indicated to the Board that it has no objection to this application; and

WHEREAS, the subject site is located on the southwest corner of Court and Joralemon Streets, and has a lot area of

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10,035 sq. ft.; and

WHEREAS, the subject PCE (an Equinox gym) will occupy approximately 31,583 sq. ft. of floor area; and

WHEREAS, specifically, the applicant represents that the PCE will be located in portions of the ground floor (2,480 sq. ft.) and mezzanine (4,020 sq. ft.), as well as the entire second, third and fourth floors (8,361 sq. ft. each); and

WHEREAS, the applicant represents that the PCE will provide gym equipment, aerobics, other classes in physical improvement and massage services by licensed massage professionals; and

WHEREAS, the applicant states that an approved interior fire alarm system will be installed in the entire PCE space, with the addition of smoke detectors, manual pull stations, local audible and visual alarms, and be connected to a FDNY-approved Central Station; and

WHEREAS, the PCE will have the following hours of operation: Monday through Thursday 5:30AM to 11PM, Friday 5:30AM to 10PM, and Saturday and Sunday 8AM to 9PM; and

WHEREAS, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. §§ 73-36 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement 06-BSA-006K, dated July 28, 2005; and

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

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

environment.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-03, to permit, within a C5-2A zoning district within the Special Downtown Brooklyn District, a physical culture establishment located in the ground and lower floors of a twelve-story commercial building, contrary to Z.R. § 32-10; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received February 1, 2006"- (8) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years from February 7, 2006 to February 7, 2016;

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

THAT the hours of operation shall be limited to Monday through Thursday 5:30AM to 11PM, Friday 5:30AM to 10PM, and Saturday and Sunday 8AM to 9PM;

THAT all massages shall be performed only by practitioners with valid and current NYS massage licenses;

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

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

THAT fire safety measures, including a sprinkler system, shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2006.

## **373-04-BZ**

APPLICANT – The Law Office of Fredrick A. Becker, for Brendan McCartan, owner.

SUBJECT – Application November 26, 2004 – under Z.R. §72-21 in an R4 district, permission sought to allow the construction of a two-story one-family dwelling on a 25' x 53.55' lot consisting of 1,338 SF. The structure does not comply with floor area allowed, open space, lot area, front yard.

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PREMISES AFFECTED – 57-69 69<sup>th</sup> Street, north side of 69<sup>th</sup> Street 24' west of 60<sup>th</sup> Avenue, Block 2830, Lot 33, Borough of Queens.

**COMMUNITY BOARD #5Q**

APPEARANCES –

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD** – Laid over to February 28, 2006, at 1:30 P.M., for continued hearing.

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**396-04-BZ**

APPLICANT – Stroock & Stroock & Lavan, LLP, by Ross Moskowitz, Esq., for S. Squared, LLC, owner.

SUBJECT – Application December 21, 2004 - under Z.R.§72-21 to permit the Proposed construction of a thirteen story, mixed use building, located in a C6-2A, TMU zoning district, which does not comply with the zoning requirements for floor area, lot coverage, street walls, building height and tree planting, is contrary to Z.R. §111-104, §23-145,§35-24(c)(d) and §28-12.

PREMISES AFFECTED -180 West Broadway, northwest corner, between Leonard and Worth Streets, Block 179, Lots 28 and 32, Borough of Manhattan.

**COMMUNITY BOARD #1M**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to March 7, 2006, at 1:30 P.M., for continued hearing.

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**100-05-BZ**

APPLICANT – Martyn & Don Weston, for 223 Water Street, LLC, owner.

SUBJECT – Application April 25, 2005 - under Z.R.§72-21 to permit the proposed conversion of the second and third floors, of a six story manufacturing building, to residential use, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R.§42-00.

PREMISES AFFECTED - 223 Water Street, aka 48 Bridge Street, northwest corner, Block 31, Lot 30, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

APPEARANCES –

For Applicant: Don Weston, Jack Guttman and Jack Freeman.

For Opposition: Raymon Gaspard and Julia Ryan.

**ACTION OF THE BOARD** – Laid over to April 4, 2006, at 1:30 P.M., for continued hearing.

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**119-05-BZ**

APPLICANT – Sheldon Lobel, P.C., for Sam Malamud, owner.

SUBJECT – Application May 16, 2005 - under Z.R.§72-21 to permit the proposed enlargement to an existing one and two story warehouse building, with an accessory office, Use Group 16, located in a C4-3 and R6 zoning district, which

does not comply with the zoning requirements for floor area, floor area ratio, perimeter wall height, parking and loading berths, is contrary to Z.R. §52-41, §33-122, §33-432, §36-21 and §36-62.

PREMISES AFFECTED - 834 Sterling Place, south side, 80' west of Nostrand Avenue, Block 1247, Lot 30, Borough of Brooklyn.

**COMMUNITY BOARD #8BK**

APPEARANCES –

For Applicant: Richard Lobel .

**ACTION OF THE BOARD** – Laid over to March 28, 2006, at 1:30 P.M., for continued hearing.

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**133-05-BZ**

APPLICANT – Sheldon Lobel, P.C., for Yitzchok Shindler. SUBJECT – Application November 30, 2005 – Under Z.R §73-622 to allow the enlargement of a single family residence which exceeds the allowable floor area and lot coverage per ZR 23-141 of the Zoning Resolution. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1231 East 21<sup>st</sup> Street, southeast corner of Avenue K and East 21<sup>st</sup> Street, Block 7621, Lot 41, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Richard Lobel, Chanie Shindler and Yitzchok Shindler.

For Opposition: Sondra Safier.

**ACTION OF THE BOARD** – Laid over to March 14, 2006, at 1:30 P.M., for continued hearing.

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**136-05-BZ**

APPLICANT - Gerald J. Caliendo, R.A., A.I.A., for Irving Avenue Holding, LLC, owner.

SUBJECT- Application June 3, 2005 – Under Z.R. §72-21 to construct a two family, two story dwelling which does not comply with the front yard requirement pursuant to ZR§23-45 and is less than the required lot width/lot area pursuant to ZR§23-32. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 1901 Nereid Avenue, corner formed by intersection of the east side of Ely Avenue and North side of Nereid Avenue, Block 5092, Lot 10, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

APPEARANCES –

For Applicant: Sandy Anagnostov.

For Opposition: Joan Richards and Bob McGowan.

**ACTION OF THE BOARD** – Laid over to March 14, 2006, at 1:30 P.M., for continued hearing.

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**137-05-BZ**

APPLICANT – Gerard J. Caliendo, R.A., AIA, for Danny Dalal, owner.

SUBJECT – Application June 3, 2005 – Under Z.R. §72-21 to construct a one family, two story and attic dwelling which

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does not comply with the minimum required lot width of 60'-0" as per ZR 23-32. The premise is located in an R1-2 zoning district.

PREMISES AFFECTED – 198-61 Foothill Avenue, north side of Foothill Avenue 230.47' from the corner of Foothill Avenue and Hillside Avenue, Block 10532, Lot 139, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES –

For Applicant: Sandy Anagnostov .

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**ACTION OF THE BOARD** – Laid over to February 28, 2006, at 1:30 P.M., for decision, hearing closed.

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**180-05-BZ**

APPLICANT – Wachtel & Masyr for 1511 Third Avenue Association/Related/Equinox, owner.

SUBJECT – Application August 4, 2005 – Special Permit under Z.R.§§73-03 and 73-367 approval sought for the legalization of a physical culture establishment located on the entire second floor portion of the third floor and the entire fourth floor with a total of 34, 125sq.ft. of floor area. The site is located in a C2-8 zoning district.

PREMISES AFFECTED – 1511 Third Avenue aka 201 East 85<sup>th</sup> Street, northeast corner of 85<sup>th</sup> Street and Third Avenue, Block 1531, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES –

For Applicant: Jesse Masyr, Mark Ginsley, Ellen Hay and Marvin Mitzner .

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**ACTION OF THE BOARD** – Laid over to February 28, 2006, at 1:30 P.M., for decision, hearing closed.

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**322-05-BZ**

APPLICANT – Eric Palatnik, P.C., for Queens Jewish Community Council, c/o Warren Hecht, Esq., contract vendee.

SUBJECT – Application November 4, 2005 – Under Z.R.§72-21 to permit the enlargement of an existing single family home and to change the use from residential to community facility. The enlargement is contrary to ZR §24-34 (rear yard) 24-35 (side yard) and 24-521 (sky exposure plane). The premise is located in an R4B zoning district.

PREMISES AFFECTED – 69-69 Main Street, Northeast corner of Main Street and 70<sup>th</sup> Avenue, Block 6642, Lot 1, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Collins.....1

**ACTION OF THE BOARD** – Laid over to March 7, 2006, at 1:30 P.M., for decision, hearing closed.

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*Jeffrey Mulligan, Executive Director.*

Adjourned: 3:40P.M.