
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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January 19, 2006

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Affecting Calendar Numbers:

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180-05-BZ	1511 Third Avenue, a/k/a 201 East 85 th Street, Manhattan

DOCKET

New Case Filed Up to January 10, 2006

367-05-A

639 Sixth Avenue, East side of Sixth Avenue 128' 2" northe of intersection of 18th Street and Sixth Avenue, Block 874, Lot(s) 9 & 10, Borough of **Brooklyn, Community Board: 7**. Appeals - Subject seeks a determination that the owner of the premises acquired a common-low vested right to continue development.

368-05-A

400 15th Street, South side of 15th Street 205 feet 5 inches west of the intersection of 8th Avenue and 15th Street, Block 1104, Lot(s) 27, Borough of **Brooklyn, Community Board: 7**. Appeals - Subject seeks a determination that the owner of the premises acquired a common-low vested right to continue development.

369-05-BZ

908 Clove Road, Clove Road, between Bard and Tyler Avenue, Block 323, Lot(s) 42-44, Borough of **Staten Island, Community Board: 1**. Under 72-21-To permit the proposed senior housing development.

370-05-BZY

523 West 37th Street, Interior lot, block bounded by West 37th and West 38th Streets, tenth and Eleventh Avenues, Block 709, Lot(s) 23, Borough of **Manhattan, Community Board: 4**. Extension of Time-To complete construction for a one story and mezzanine addition to an existing three-story building.

371-05-A

523 West 37th Street, Interior lot, block by West 37th and West 38th Streets, Tenth and Eleventh Avenues, Block 709, Lot(s) 23, Borough of **Manhattan, Community Board: 4**. Appeals-For a one story and mezzanie addition to an existing three-story building

372-05-BZY

28 Webster Avenue, At the intersection of Webster and Stanly Avenues, Block 111, Lot(s) 15, Borough of **Staten Island, Community Board: 1**. 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

373-05-BZY

32 Webster Avenue, At the intersection of Webster and

Stanly Avenues, Block 111, Lot(s) 16, Borough of **Staten Island, Community Board: 1**. 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

374-05-BZY

578 Riga Street, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 130, Borough of **Staten Island, Community Board: 3**. 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

375-05-BZY

576 Riga Street, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 131, Borough of **Staten Island, Community Board: 3**. 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

376-05-BZY

574 Riga Street, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 132, Borough of **Staten Island, Community Board: 3**. 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

377-05-BZY

572 Riga Street, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 133, Borough of **Staten Island, Community Board: 3**. 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

378-05-BZY

570 Riga Street, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 134, Borough of **Staten Island, Community Board: 3**. 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

379-05-BZY

560 Riga Street, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 135, Borough of **Staten Island, Community Board: 3**. 11-332 to extend

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the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

380-05-BZY

562 Riga Street, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 136, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

381-05-BZY

564 Riga Street, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 137, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

382-05-BZY

566 Riga Street, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 138, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

383-05-BZY

568 , Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 135, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

384-05-BZY

15 Carmela Court, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 126, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

385-05-BZY

17 Carmela Court, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 127, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

386-05-BZY

23 Carmela Court, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 128, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

387-05-BZY

25 Carmela Court, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 129, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

388-05-BZY

605 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 120, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

389-05-BZY

607 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 120, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

390-05-BZY

609 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 122, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

391-05-BZY

611 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 123, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

392-05-BZY

615 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 124, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

393-05-BZY

617 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 125, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

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394-05-BZY

589 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 110, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

395-05-BZY

591 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 111, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

396-05-BZY

593 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 112, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

397-05-BZY

595 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 113, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

398-05-BZY

597 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 114, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

399-05-BZY

599 Mill Road, Bound by Mill Road and Aviston Street and Riga Street, Block 4690, Lot(s) 115, Borough of **Staten Island, Community Board: 3.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Major dev. For 24 Months

400-05-BZY

3202 Morley Avenue, S/S of Morley Avenue, 44'.17" East of Cranford & Richmond Road, Block 4313, Lot(s) 4, Borough of **Staten Island, Community Board: 2.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

401-05-BZY

3206 Morley Avenue, S/S of Morley Avenue, 44'.17" East

of Cranford & Richmond Road, Block 4313, Lot(s) 2, Borough of **Staten Island, Community Board: 2.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

402-05-BZY

16 Maxie Court, South of the corner of Vanduzer Street and Broad Street, Block 616, Lot(s) 1, Borough of **Staten Island, Community Board: 1.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

403-05-BZY

18 Maxie Court, South of the corner of Vanduzer Street and Broad Street, Block 616, Lot(s) 1, Borough of **Staten Island, Community Board: 1.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

404-05-BZY

20 Maxie Court, South of the corner of Vanduzer Street and Broad Street, Block 616, Lot(s) 1, Borough of **Staten Island, Community Board: 1.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

405-05-BZY

22 Maxie Court, South of the corner of Vanduzer Street and Broad Street, Block 616, Lot(s) 1, Borough of **Staten Island, Community Board: 1.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

406-05-BZY

24 Maxie Court, South of the corner of Vanduzer Street and Broad Street, Block 616, Lot(s) 1, Borough of **Staten Island, Community Board: 1.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

407-05-BZY

26 Maxie Court, South of the corner of Vanduzer Street and Broad Street, Block 616, Lot(s) 1, Borough of **Staten Island, Community Board: 1.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

408-05-BZY

28 Maxie Court, South of the corner of Vanduzer Street and Broad Street, Block 616, Lot(s) 1, Borough of **Staten Island, Community Board: 1.** 11-332 to extend the time

DOCKET

424-05-BZY

29 Tessa Court, South of the corner of Vanduzer Street and Broad Street, Block 616, Lot(s) 1, Borough of **Staten Island, Community Board: 1.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

425-05-BZ

2409 Avenue Z, North side of Avenue Z, Bedford Avenue to the east, East 24th Street to the west., Block 7441, Lot(s) 1 & 104, Borough of **Brooklyn, Community Board: 15.** Under 72-21-To permit the construction of a three-story mixed use building containing five residential units and community facility use within an R4 district.

426-05-BZ

57-02/08 39th Avenue, Three adjacent lots comprising whole block front on south side of 39th Avenue between 57th and 58th Street, Block 1228, Lot(s) 48,52,57, Borough of **Queens, Community Board: 2.** Under 72-21-To permit the enlargement of an existing building which enlargement will exceed the maximum allowable FAR in a M1-1 ZD.

427-05-BZ

133-47 39th Avenue, Between Prince Street and College, Block 4972, Lot(s) 59, Borough of **Queens, Community Board: 7.** (SPECIAL PERMIT) 73-44-To permit the proposed retail, community facility & office development (this latter portion is use group 6, parking requirement category B1, office use) which provides less than the required parking & is contrary to ZR Sec. 36-21.

428-05-BZY

475 Capodanno Boulevard, 91.90 feet west of cross streets Father Capadanno Boulevard and Mclaughlin Street, Block 3500, Lot(s) 30 tent, 31,32,33, Borough of **Staten Island, Community Board: 2.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

429-05-BZY

473 Father Capodanno Boulevard, 91.90 feet west of cross streets Father Capadanno Boulevard and Mclaughlin Street, Block 3500, Lot(s) 30 tent, 30 31,32,33, Borough of **Staten Island, Community Board: 2.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

430-05-BZY

473 Father Capadanno Boulevard, 91.90 feet west of cross streets Father Capadanno Boulevard and Mclaughlin Street, Block 3500, Lot(s) 30 tent, 30,31,32,33, Borough of **Staten Island, Community Board: 2.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

431-05-BZY

470 Father Capadanno Boulevard, 91.90 feet west of cross streets Father Capadanno Boulevard and Mclaughlin Street, Block 3500, Lot(s) 30 tent, 30,31,32,33, Borough of **Staten Island, Community Board: 2.** 11-332 to extend the time of construction and/or obtain Certificate of Occupancy for a Minor development.

1-06-A

404 Bayside, North of Palmer Drive 10.67' feet west of Rockaway Point Boulevard., Block 16350, Lot 300, Borough of **Queens, Community Board: 14.** General City Law Section 36, Article 3-Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street, and the upgrade of an existing private disposal system.

2-06-A

25 Janet Lane, North of Janet Lane 114.88 Feet of Beach 203th Street., Block 16350, Lot 400, Borough of **Queens, Community Board: 14.** General City Law Section 36, Article 3-Proposed reconstruction and enlargement of an existing one family dwelling and to upgrade an existing private disposal system.

3-06-A

439 Hillcrest Walk, West of Hillcrest Walk 48.68 Feet of Rockaway Point Boulevard., Block 16350, Lot 400, Borough of **Queens, Community Board: 14.** General City Law Section 36, Article 3-Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street, and the upgrade of an existing private disposal system.

4-06-BZ

1435 East 21st Street, East 21st Street between Avenue M and Avenue N (apprx.113' south of Avenue M., Block 7657, Lot 39, Borough of **Brooklyn, Community Board: 14.** (SPECIAL PERMIT) 73-622-To allow the enlargement of a single family residence located in a residential (R2) ZD.

5-06-BZ

94-07 156th Avenue, Between Killarney Street and Cross

DOCKET

Bay Boulevard, Block 11588, Lot 67, Borough of **Queens**,
Community Board: 10. Under 72-21-

6-06-BZ

283 East 164th Street, Northwest corner of College Avenue, Block 2432, Lot 19, Borough of **Bronx**,
Community Board: 4. Under 72-21-Re-establishment-Lapse of prior approval.

7-06-A

42 Queens Walk, W/S Queens Walk 165.53' S/O Oceanside Avenue, Block 16350, Lot 400, Borough of **Queens**, **Community Board: 14.** General City Law Section 36, Article 3-Proposed to reconstruct and enlarge an existing single family dwelling, also to upgrade existing non-complying private disposal system.

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

CALENDAR

MARCH 7, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 7, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

645-59-BZ

APPLICANT – Vassalotti Associate Architects, LLP., for Cumberland Farms, Inc., owner.

SUBJECT - Application July 12, 2005 - Extension of Term of a Variance for an additional 10 years for the existing gasoline service station with accessory convenience store which expired on October 7, 2005. The premise is located in a C2-1 in an R5 zoning district.

PREMISES AFFECTED – 10824 Flatlands Avenue, Block 8235, Lot 2, Borough of Brooklyn.

COMMUNITY BOARD #18BK

139-92-BZ

APPLICANT – Samuel H. Valencia, for Samuel H. Valencia – Valencia Enterprise, owner

SUBJECT – Application July 20, 2005 – Reopening for an Extension of Term/Waiver for an eating and drinking establishment, with dancing, which expired on March 7, 2004, located on the first floor of a three story mixed use building with residences on the upper floors. The premise is located in a C2-2 in an R-6 zoning district.

PREMISES AFFECTED – 52-15 Roosevelt Avenue, north side of Roosevelt Avenue, 125.53' East of 52nd Street, Block 1315, Lot 76, Borough of Queens.

COMMUNITY BOARD #2Q

240-90-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Keil Brothers, Inc., owner.

SUBJECT – Application September 20, 2005 – Extension of Term/Amendment of variance of an Agricultural Nursery & Truck Garden which expires on May 14, 2006. It is requested to extend the term from a 10 year term to a 20 year term and to amend to allow overnight parking for 10 vehicles.

PREMISES AFFECTED – 210-12 48th Avenue, 210th Street and 48th Avenue, Block 7369, Borough of Queens.

COMMUNITY BOARD #11Q

173-94-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for

Richard Shelala, owner; Compass Forwarding Co., Inc., lessee.

SUBJECT – Application July 25, 2005 – Reopening for an amendment of variance to permit the change in hours of operation of a freight transfer facility. The premise is located in a C2-2(R3-2) zoning district.

PREMISES AFFECTED – 159-15 Rockaway Boulevard a/k/a 165-10 144th Road, southeast corner of Rockaway Boulevard and 144th Road, Block 1327, Lot 17, Borough of Queens.

COMMUNITY BOARD #8Q

MARCH 7, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, March 7, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

194-04-BZ thru 199-04-BZ

APPLICANT – Augusta & Ross, for Always Ready Corp., owner.

SUBJECT – Application May 10, 2004 – Under Z.R. §72-21 Proposed construction of a six- two family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED –

9029 Krier Place, aka 900 East 92nd Street, 142' west of East 92nd Street, Block 8124, Lot 75 (tentative 180), Borough of Brooklyn.

9031 Krier Place, aka 900 East 92nd Street, 113.5' west of East 92nd Street, Block 8124, Lot 75 (tentative 179) Borough of Brooklyn.

9033 Krier Place, aka 900 East 92nd Street, 93' west of East 92nd Street, Block 8124, Lot 75 (tentative 178) Borough of Brooklyn.

9035 Krier Place, aka 900 East 92nd Street, 72.5' west of East 92nd Street, Block 8124, Lot 75 (tentative 177) Borough of Brooklyn.

9037 Krier Place, aka 900 East 92nd Street, 52' west of East 92nd Street, Block 8124, Lot 75 (tentative 176) Borough of Brooklyn.

9039 Krier Place, aka 900 East 92nd Street, corner of East 92nd Street, Block 8124, Lot 75 (tentative 175) Borough of Brooklyn.

COMMUNITY BOARD #18BK

320-04-BZ

APPLICANT – Harold Weinberg, P.E., for Michael Reznikov, owner.

SUBJECT – Application September 20, 2004 - Proposed

CALENDAR

legalization of a Special Permit ZR§73-622 for a two-story and rear enlargement, to an existing one family dwelling, Use Group 1, located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

PREMISES AFFECTED – 229 Coleridge Street, east side, 220'-0" south of Oriental Boulevard, Block 8741, Lot 72, Borough of Brooklyn.

COMMUNITY BOARD #15BK

PREMISES AFFECTED – 410 8th Avenue, located on the East side of 8th Avenue between 30th and 31st Streets, Block 780, Lot 76, Borough of Manhattan

COMMUNITY BOARD #5M

Pasquale Pacifico, Executive Director

66-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt's Petroleum Inc., owner.

SUBJECT – Application March 16, 2005 – Special Permit filed Under Z.R. §§11-411 and 11-413 of the zoning resolution to request the instatement of an expired, pre-1961, variance, and to request authorization to legalize the change of use from a gasoline service station with accessory automotive repairs, to an automotive repair facility without the sale of gasoline, located in a C2-4/R7-1 zoning district.

PREMISES AFFECTED – 1236 Prospect Avenue, southeast corner of Prospect Avenue and Home Street, Block 2693, Lot 29, Borough of The Bronx.

COMMUNITY BOARD #2BX

285-05-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Robert E. Benson, owner.

SUBJECT – Application September 13, 2005 - Pursuant to Section ZR 72-21 for a variance for the proposed enlargement of an existing one-family dwelling that will not provide the required front yard, ZR 23-45 and rear yard, ZR 23-47. The premise is located inan R1-2 (HS) Hillside Preservation District.

PREMISES AFFECTED – 34 Duncan Road, West side of Duncan Road 163' North of intersection with Theresa Place, Block 591, Lot 52, Borough of Staten Island,

COMMUNITY BOARD #1SI

301-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Jeanette Impaglia, owner.

SUBJECT – Application October 12, 2005 – Special Permit Under §73-36 to permit the operation of a Physical Culture Establishment on the second floor mezzanine of a building located within a C6-3X.

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JANUARY 10, 2006
10:00 A.M.**

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

The motion is to approve the minutes of regular meeting of the Board held on Tuesday morning and afternoon, October 25, 2005, as printed in the bulletin of November 3, 2005, Vol. 90, No. 44. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

7-51-BZ

APPLICANT – Eric Palatnik, P.C., for 6717 4th Avenue, LLC, owner.

SUBJECT – Application December 29, 2004 – Extension of Term/Waiver permitting in a business use district, Use Group 6, using more than the permitted area and to permit the parking of patron's motor vehicles in a residence use portion of the lot. The subject premises is located in an R-6/R7-1(C1-3) zoning districts.

PREMISES AFFECTED – 6717/35 Fourth Avenue, northeast corner of Senator Street, Block 5851, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #8BK

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

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the previously granted variance pursuant to Z.R. §11-411; and

WHEREAS, a public hearing was held on this application on December 6, 2005, after due notice by publication in *The City Record*, and then to decision on January 10, 2006; and

WHEREAS, Community Board No. 10, Brooklyn, recommends approval of this application; and

WHEREAS, the premises is located on the northeast corner of Fourth Avenue and Senator Street; and

WHEREAS, the site is currently located partially within an R6 zoning district and partially within an R7-1 zoning district with a C1-3 overlay; and

WHEREAS, the premises is improved upon with an existing two-story commercial structure, with a drug store and laundromat on the ground floor and offices on the second floor;

and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1951, when, under the subject calendar number, the Board granted an application to permit the construction and maintenance of a business building with more than the permitted floor area, and to permit parking of patron's motor vehicles in the residence use portion of the lot for a term of ten years; and

WHEREAS, subsequently, this grant has been amended and extended by the Board at various times; and

WHEREAS, the most recent extension of term was granted on November 3, 1993, and expired on February 6, 2003; and

WHEREAS, upon a review of the application, the Board observed that violations had been issued to the premises by the Department of Buildings, and asked the applicant to address them; and

WHEREAS, the applicant responded that the violations arose because the laundromat that is currently located on the premises has no license from the Department of Consumer Affairs; the applicant noted that in order to obtain the license, the owner needs a new Certificate of Occupancy (CO) reflecting the as-of-right laundromat use, but cannot obtain its new CO until it receives an extension of time from the Board for the variance; and

WHEREAS, pursuant to Z.R. § 11-411, the Board may permit an extension of term for a previously granted variance; and

WHEREAS, based upon the submitted evidence, the Board finds the requested extension of term appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on May 22, 1951, as subsequently extended, so that as amended this portion of the resolution shall read: "to extend the term for ten years from February 6, 2003, to expire on February 6, 2013, *on condition* that the use shall substantially conform to drawings as filed with this application, marked 'Received December 29, 2004'-(4) sheets, 'September 30, 2005'-(1) sheet and 'December 9, 2005'-(3)sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on February 6, 2013;

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

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

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

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

(DOB Application No. 301881382)

Adopted by the Board of Standards and Appeals, January

MINUTES

10, 2006.

1016-84-BZ

APPLICANT – Martyn & Don Weston, for Livia Liberace, owner; Ultramotive, lessee.

SUBJECT – Application August 8, 2005 – Pursuant to Z.R. §11-411 for the Extension of Term of a previously approved Variance for the operation of an auto repair shop (UG12) with accessory uses and an Amendment to reestablish and legalize auto body and fender work on site. The premise is located in a C8-2 and R-5 OP zoning district.

PREMISES AFFECTED – 790-798 Coney Island Avenue, west side 260’-0 3/8 south of Cortelyou Road, Block 5393, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Don Weston.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, an amendment to the previously granted variance, and an extension of term pursuant to Z.R. §11-411; 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 January 10, 2006; and

WHEREAS, Community Board No. 12, Brooklyn, recommends conditional approval of this application; said conditions relate to the proposed reinstatement of the fender/body work and spray painting uses on the site; and

WHEREAS, the premises is located on the west side of Coney Island Avenue, south of Cortelyou Road; and

WHEREAS, the site is located partially within a C8-2 zoning district and partially within an R5 zoning district; and

WHEREAS, the premises is improved upon with an existing one-story plus mezzanine auto repair shop; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 20, 1948, when, under calendar number 64-58-BZ, the Board granted an application for the subject lot and two additional lots to permit in a residence and business district the occupancy of a garage for more than five vehicles, a gasoline service station, a motor vehicle repair shop, servicing of new and used motor vehicles, body and fender repairs, painting, spraying, welding, office and store; and

WHEREAS, subsequently, this grant has been amended and extended by the Board at various times; and

WHEREAS, on July 30, 1985, the Board approved, under the subject calendar number, the reestablishment of a portion of the variance on the subject lot for an automotive repair shop

with accessory use of acetylene torch and arc welding and spray painting, sale and display of new and used autos and storage of tow trucks and auto parts; and

WHEREAS, on March 31, 1998, the Board granted an extension of term to expire on July 30, 2005; and

WHEREAS, however, one of the conditions of this grant stated that no fender or body work nor spray painting of vehicles shall be conducted on the premises; this condition was listed at the request of the applicant, as they intended to cease such uses on the site and did not anticipate their reinstatement; and

WHEREAS, the applicant requests that the Board reestablish the body and fender work uses; and

WHEREAS, the applicant represents that the body and fender work will be located in the same area of the building that was approved for such use in prior Board grants; and

WHEREAS, the Board inquired as to ventilation in the building and the applicant responded that ventilation is achieved through an existing exhaust fan located on the roof; and

WHEREAS, the applicant also stated that there are no windows facing the adjacent residential uses in the R5 zoning district; and

WHEREAS, the applicant would also like to modify the hours of operation from 8AM to 5:30PM Monday through Friday and 8AM to 12PM Saturday to 8AM to 5:30PM Monday through Friday and 8AM to 12PM on both Saturday and Sunday; and

WHEREAS, the applicant also seeks a ten year extension of term; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term for a previously granted variance; and

WHEREAS, based upon the submitted evidence, the Board finds the requested extension of term appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on July 30, 2005, as subsequently extended, so that as amended this portion of the resolution shall read: “to permit fender and body work and spray painting of vehicles on the premises, to allow a change in the hours of operation, and to extend the term for ten years from July 30, 2005, to expire on July 30, 2015, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received November 4, 2005’-(3) sheets and ‘December 22, 2005’-(1) sheet; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on July 30, 2015;

THAT the hours of operation shall be from 8AM to 5:30PM Monday through Friday and 8AM to 12PM Saturday and Sunday;

THAT all body and fender work shall occur only within the building in the area indicated on the BSA-approved plans;

THAT no more than two quarts of paint shall be sprayed per day;

THAT the front doors shall be kept closed while the premises are in operation;

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

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

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

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

(DOB Application No. Alt. 1790/84)

Adopted by the Board of Standards and Appeals, January 10, 2006.

122-93-BZ

APPLICANT – Adam Rothkrug, Esq., for Equinox Fitness Club, lessee; 895 Broadway LLC, owner.

SUBJECT – Application March 31, 2005 – Waiver of the rules, extension of term and amendment for a legalization of an enlargement to a physical cultural establishment that added 7, 605 square feet on the second floor and an addition of 743sq.ft on the first floor mezzanine.

PREMISES AFFECTED – 895/99 Broadway, W/S Broadway, 27’6”south of corner of East 20th Street, Block 648, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

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

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening to amend the resolution, and an extension of the term of the previously granted special permit that expired on September 20, 2004; and

WHEREAS, a public hearing was held on this application on December 6, 2005, after due notice by publication in *The City Record*, and then to decision on January 10, 2006; and

WHEREAS, Community Board No. 5, Manhattan, waived comment on this application; and

WHEREAS, the subject premises is located on the west side of Broadway, south of East 20th Street; and

WHEREAS, on September 20, 1994, the Board granted a special permit application pursuant to Z.R. § 73-36, to permit, in an M1-5M zoning district, the use of the cellar, first floor and mezzanine of the existing five-story commercial building as a

physical culture establishment (“PCE”); and

WHEREAS, the instant application seeks to: 1) extend the term of the special permit for ten years; and 2) amend the resolution to legalize the extension of the PCE use to the entire second floor and the mezzanine; and

WHEREAS, the applicant represents that prior to the expansion, the PCE occupied 10,188 sq. ft. of floor area in the cellar, 9,869 sq. ft. on the first floor, and 3492 sq. ft. on the mezzanine level; and

WHEREAS, the applicant states that after the expansion, the PCE also occupies 7,605 sq. ft. of floor area on the second floor; the applicant also states that it has modified the mezzanine to include an additional 743 sq. ft. of floor area, for at total of 4,235 sq. ft.; and

WHEREAS, the applicant represents that the hours of operation will continue to be: Monday through Thursday – 6 AM to 11 PM; Friday – 6 AM to 10 PM; and Saturday and Sunday – 8 AM to 9 PM; and

WHEREAS, the Board finds that a ten-year extension and the requested amendment is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated September 20, 1994, so that as amended this portion of the resolution shall read: “to permit the legalization of interior changes to the PCE including the expansion to the second floor of the building, and an extension of the term of the special permit for a term of ten years; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked ‘Received October 11, 2005’–(6) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from September 20, 2004, expiring September 20, 2014;

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

THAT a new Certificate of Occupancy for the premises shall be obtained by July 10, 2006;

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

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

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

(DOB Application No. 100659315)

Adopted by the Board of Standards and Appeals, January 10, 2006.

62-96-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 200 Madison Associates, LP, owner; New York Sports Club Inc., lessee.

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SUBJECT – Application March 31, 2005 - Amendment to legalize on the first floor the enlargement of a physical culture establishment and to allow the change in ownership. The premise is located in C5-2 zoning district.

PREMISES AFFECTED – 200 Madison Avenue, westerly block of Madison Avenue, between East 35th and East 36th Streets, Block 865, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an amendment to a previously approved special permit for a Physical Culture Establishment (“PCE”); and

WHEREAS, a public hearing was held on this application on November 1, 2005, after due notice by publication in *The City Record*, postponed December 6, 2005 and then to decision on January 10, 2006; and

WHEREAS, Community Board No. 5, Manhattan, waived comment as to this application; and

WHEREAS, the premises is located on the west side of Madison Avenue, between East 35th and East 36th Streets; and

WHEREAS, the site is located within a C5-2 zoning district; and

WHEREAS, the premises is improved upon with an existing 25-story commercial building; the PCE is located in portions of the cellar, first floor and mezzanine; and

WHEREAS, on February 4, 1997, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-36, allowing the subject PCE for a term of 10 years; and

WHEREAS, the applicant represents that the operator of the PCE expanded on the first floor without first obtaining approval of the Board; and

WHEREAS, specifically, the applicant states that the first floor gross floor area devoted to the PCE as approved was 4,474 sq. ft, and that the expansion has increased the gross floor area to 8,924 sq. ft.; and

WHEREAS, the applicant represents that the expansion was undertaken not as a result of an increase in membership, but to accommodate existing members; and

WHEREAS, the applicant also represents that the PCE has been acquired by a new owner/operator, and that approval of this change is also requested; and

WHEREAS, the Department of Investigation has performed a background check on the new 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, based upon the submitted evidence, the Board finds the requested legalization and change in operator/owner are appropriate.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on February 4, 1997, so that as amended this portion of the resolution shall read: “to permit the legalization of an expansion on the first floor of the facility, as well as a change in ownership and operator, *on condition* that the all work/site conditions shall substantially conform to drawings as filed with this application, marked ‘Received September 23, 2005’-(2) sheets and ‘December 19, 2005’-(3) sheets; *on further condition*:

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

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

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

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

(DOB Application No. 101225620)

Adopted by the Board of Standards and Appeals, January 10, 2006.

213-96-BZ, Vol. III

APPLICANT – Slater & Beckerman, LLP, for 51 LLC, owner; Cheers of Manhattan, Inc., lessee.

SUBJECT – Application April 18, 2005 – Extension of Term/Waiver for an eating and drinking establishment with entertainment and dancing. The premise is located in an C4-5 zoning district.

PREMISES AFFECTED – 51-53 Christopher Street (a/k/a 113 Seventh Avenue South) Block 610, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

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

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, an extension of term of a special permit for a Use Group 12a Cabaret, as well as an amendment to the special permit to allow changes to exiting; and

WHEREAS, a public hearing was held on this application on November 1, 2005, after due notice by publication in *The*

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City Record, with continued hearings on December 6, 2005 and then to decision on January 10, 2006; and

WHEREAS, the site had an inspection by a committee of the Board, including Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin; and

WHEREAS, the site is located on the northeast corner of Seventh Avenue South, at the intersection with Christopher Street, and is located within a C4-5 zoning district; and

WHEREAS, it is improved upon with an existing two-story building occupied by a Use Group 6 eating and drinking establishment (the "Bar") on the first floor and a Use Group 12a Cabaret (the "Cabaret") on the second floor; and

WHEREAS, the Bar and the Cabaret are parts of the same establishment; the Bar is an as of right use; and

WHEREAS, the hours of operation of the Cabaret are: 10:30 PM to 4:00 AM, Wednesday through Monday; and

WHEREAS, the Board has exercised jurisdiction over the Cabaret since March 24, 1998, when, under the subject calendar number, it granted an application for a special permit under ZR § 73-244, which allowed the Cabaret on the second floor of the building, for a three year term; and

WHEREAS, this grant was extended on April 17, 2001 for another three year term; this term expired on March 24, 2004; and

WHEREAS, the Board granted the special permit on condition that the only entrance to the Cabaret be located at 113 Seventh Avenue South; and

WHEREAS, the applicant proposes: (1) an extension of term; and (2) an amendment to the permit; and

WHEREAS, specifically, the applicant requests that the Board approve a condition that, when the Cabaret is in operation, all patrons to both the Bar and the Cabaret will enter and exit on Seventh Avenue South; and

WHEREAS, the applicant also asks that the Board approve a condition that when the Cabaret is not in operation, the second floor may be used by the Bar and all patrons will enter and exit on Christopher Street; and

WHEREAS, Community Board No. 2, Manhattan, recommends disapproval of this application; and

WHEREAS, the Central Village Block Association also opposes this application; and

WHEREAS, both the Community Board and the Block Association state that the Cabaret had not been a good neighbor in terms of noise; and

WHEREAS, at hearing, the Board expressed concerns regarding the following: (1) the enforcement of the entrance from Seventh Avenue; (2) the need for appropriate signage indicating the hours of the Cabaret; (3) the potential need for security personnel posted at the two entrances; and (4) the community-based complaints about noise; and

WHEREAS, the applicant has agreed that a sign will be installed in the window of the Bar, indicating that during the hours of operation of the Cabaret, the entrance for both the Bar and the Cabaret will be on Seventh Avenue South; and

WHEREAS, the applicant has also agreed to the posting of security personnel at both the Christopher Street and Seventh

Avenue entrances; the security personnel will ensure that patrons will not congregate or block entrances to the premises; and

WHEREAS, in response to noise concerns, the applicant noted that the windows to the Cabaret are padlocked so that they can not be opened, and that plexiglass was added for further soundproofing; and

WHEREAS, in response to additional concerns regarding doors and emergency egress raised by the Vice-Chair, the applicant agreed to a notation on the plans indicating that the Christopher Street door will have a panic bar and alarm, and after 10:30 P.M., will be used for emergency egress only; and

WHEREAS, the applicant also stated that patrons needed to move freely between the Bar and the Cabaret, so the interior door between the uses would have a panic bar only, but no alarm; and

WHEREAS, at the request of the Board, the applicant re-addressed the special permit findings; and

WHEREAS, specifically, the applicant asserts that: (1) the waiting area is maintained in accordance with the requirements of the special permit and the Board's prior grant; (2) the entrance to the Cabaret, since it will be on Seventh Avenue South, is a minimum of 100 ft. from the nearest residential district boundary; (3) the Cabaret has not and will not cause undue vehicular or pedestrian congestion in local streets; (4) the essential character of the neighborhood is not impaired by the Cabaret; (5) the Cabaret will not cause the sound level in any adjacent lawful residential use to exceed Noise Code limits, due to appropriate soundproofing measures; and (6) the application is made jointly by the owner and the operators of the Cabaret; and

WHEREAS, based upon the submitted evidence, the Board finds the requested extension of term and amendment appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on July 30, 2005, as subsequently extended, so that as amended this portion of the resolution shall read: "to permit a modification of the special permit to include specific conditions, set forth below, and to extend the term for three years from March 24, 2004, to expire on March 24, 2007, *on condition* that the use shall substantially conform to drawings as filed with this application, marked 'Received December 22, 2005'-(2) sheets; and *on further condition*:

THAT the term of this grant shall be for three years from the last expiration date, to expire on March 24, 2007;

THAT the hours of operation of the Cabaret shall be limited to: 10:30 PM to 4:00 AM, Wednesday through Monday;

THAT a sign will be installed in the window of the first floor bar along the Christopher Street entrance, indicating that during the hours of operation of the second floor Cabaret, the entrance for both the bar and the Cabaret will be on Seventh Avenue South;

THAT security personnel shall be stationed at both the Christopher Street and Seventh Avenue entrances, to ensure that patrons do not congregate on the sidewalks near the entrances;

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THAT when the Cabaret is not in operation, the entrance to the Bar shall be on Christopher Street;

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

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

THAT the premises shall be operated in compliance with the required conditions by February 10, 2005;

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

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

(DOB Application No. Alt. 1790/84)

Adopted by the Board of Standards and Appeals, January 10, 2006.

206-04-BZ

APPLICANT – Steven M. Sinacori/Stadtmauer Bailkin, LLP, for Sephardic Community Youth Center, Inc., owners.

SUBJECT – Application September 27, 2005 – Reopening for an amendment to reflect the installation of additional security measures, the relocation of an outdoor play area, waiver of required parking and loading berths, changes to landscaping and a building projection. The premise is located in an R5 within Ocean Parkway Special District.

PREMISES AFFECTED – 1901 Ocean Parkway, fronting on Ocean Parkway, Avenue S and East 7th Street, Block 7088, Lots 1, 14, 15, 16 and 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Bowers.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance; and

WHEREAS, a public hearing was held on this application on December 23, 2004, after due notice by publication in *The City Record*, and then to decision on January 10, 2006; and

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

WHEREAS, the subject premises is located on the corner of Ocean Parkway and Avenue S, with frontage on East 7th Street, and has a total lot area of approximately 23,000 sq. ft.; and

WHEREAS, the zoning lot is comprised of the following

individual tax lots: 1, 14, 15, 16 and 89; and

WHEREAS, the site is located within an R5 zoning district (within the Ocean Parkway Special Zoning District); and

WHEREAS, the site is improved upon with a three and four story building, currently occupied by the Sephardic Community Center (the “Center”), a not-for-profit entity that serves youth, the elderly, and the Orthodox community by providing various educational, athletic, cultural and counseling services; and

WHEREAS, in 1978, under BSA Calendar No. 246-78-BZ, the Board granted a variance permitting the Center; and

WHEREAS, in 1989, under BSA Calendar No. 489-89-BZ, the Board granted a second variance permitting an enlargement and expansion of the building onto two newly acquired adjacent lots, in order to accommodate the Center’s programmatic needs; and

WHEREAS, construction under the 1989 grant did not take place, due to a poor economic climate and a resulting lack of construction funding; and

WHEREAS, in November of 2000, under BSA Calendar No. 166-00-BZ, the Board granted a third variance permitting another proposed enlargement of the building, again to accommodate the Center’s programmatic needs; and

WHEREAS, the Center did not want to pursue construction under the November 2000 grant, as the anticipated costs were high and would not allow for the continuation of Center activities during construction; and

WHEREAS, accordingly, on September 14, 2004, the Board granted a further application pursuant to Z.R. § 72-21 under the subject calendar number, to permit the proposed enlargement of the Center’s building, which did not comply with the zoning requirements for floor area, floor area ratio, lot coverage, rear yard and rear yard equivalents, and height and setback, contrary to Z.R. §§113-51, 113-544, 113-55, 23-631 and 23-141; and

WHEREAS, the applicant now seeks the following amendments, which are related to the programmatic needs of the Center: (1) the addition of precautionary security measures including a fence at the corner of Ocean Parkway and Avenue S, and the installation of pre-cast stone or metal benches for the open entrance plaza; (2) the relocation of the outdoor play area from street level to the roof, resulting in the extension of one stairway to provide a second means of egress, the extension of the elevator core, and the addition of an accessible rooftop bathroom, all of which results in a slight increase in floor area; (3) a waiver of the required parking; and (4) landscaping and a building projection that does not comply with the Special district requirements regarding landscaping and yards; and

WHEREAS, the applicant represents that the relocation of the playground and related extension of the elevator core and stairway will increase the total floor area by 769.8 sq. ft. from the previous grant; and

WHEREAS, the Board has reviewed the submitted plans, which reflect the installation of the additional security measures, the relocation of the playground to the rooftop, and the landscaping and projection, and finds that they are acceptable

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modifications to the approved plans in that they relate to the programmatic needs of the Center and are minor in nature; and

WHEREAS, the applicant represents that a parking requirement for the Center had not been raised by the Department of Buildings or in prior Board actions until the instant application was being contemplated and the oversight was discovered; and

WHEREAS, the applicant suggests that part of this oversight may be due to a 1984 certificate of occupancy that indicates that there is an approximately 8,000 sq. ft. open area for parking; however, the BSA-approved site plan does not show such an open area and the Center currently does not provide the required parking; and

WHEREAS, accordingly, the applicant now asks for a waiver of the applicable parking regulations; and

WHEREAS, at hearing, the Board expressed concern about the parking waiver, and asked the applicant for clarification as to any potential impact the waiver might have; and

WHEREAS, the applicant states that most of the Center's members live in close proximity to the facility, and that its membership and employee count is not increasing as a result of the proposed changes, thus minimizing the need for parking; and

WHEREAS, the applicant also states that senior citizens use the Center for longer periods of time than any other group, and primarily arrived by van service; very few drive their own vehicles to the Center; and

WHEREAS, additionally, the applicant's parking consultant states that there is no significant parking impact from the Center or the uses therein; and

WHEREAS, based upon the submitted evidence, the Board finds the requested extension of term and amendment appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on September 14, 2004, so that as amended this portion of the resolution shall read: "to permit the addition of security measures and non-complying landscaping, the relocation of a playground, and a waiver of parking requirements, *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received January 4, 2006'-(13) sheets; and *on further condition*:

THAT all security measures and landscaping shall be installed and maintained as indicated on the BSA-approved plans;

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

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

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

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

related to the relief granted."

(DOB Application No. 301770509)

Adopted by the Board of Standards and Appeals, January 10, 2006.

780-45-BZ

APPLICANT – Anthony G. Mango, for Guiseppe Rapisardi and Ann Rapisardi, owners.

SUBJECT – Application June 23, 2005 – Pursuant to Z.R. §11-413 the legalization of the existing/proposed change of use within the same Use Group 16 from a beer storage of trucks to a plumbing contractor's establishment with storage of plumbing tools, equipment, supplies and the storage of equipment vans. The premise is located in an R6B zoning district.

PREMISES AFFECTED – 1818-1820 Bleecker Street, east side of Bleecker Street, 155' north of Seneca Avenue, Block 3435, Lots 21 and 22, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Anthony Mango and Giuseppe Rapisarri.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Abstain: Commissioner Collins.....1

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

1005-66-BZ

APPLICANT – Moshe M. Friedman, P.E., for Chelsea Town Company, owner.

SUBJECT – Application November 22, 2005 – Request for a waiver of Rules of Procedure and reopening for the Extension of Term of a variance previously granted under Section 60(1b) of the Multiple Dwelling Law, which expired May 2, 2002, for transient parking of unused and surplus tenant spaces within the accessory garage. Transient parking is limited to twenty-two cars. The premise is located in an R8B zoning district.

PREMISES AFFECTED – 320 West 30th Street, a/k/a 314-322 West 30th Street, south side of West 30th Street, 202' west of 8th Avenue, Block 753, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Moshe M. Friedman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Abstain: Commissioner Collins.....1

ACTION OF THE BOARD – Laid over to January 31, 2006, at 10 A.M., for decision, hearing closed.

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384-74-BZ

APPLICANT – Sheldon Lobel, P.C., for R. M. Property Management, Inc., owner.

SUBJECT – Application May 18, 2005 - Extension of Term of a public parking lot and an Amendment of a Variance Z.R. §72-21 to increase the number of parking spaces and to change the parking layout on site. The premise is located in an R4A zoning district.

PREMISES AFFECTED – 3120 Heath Avenue, southwest corner of Shradly Place, Block 3257, Lot 39, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Josh Rinesmith and Richard Marshall.

ACTION OF THE BOARD – Laid over to February 14, 2006, at 10 A.M., for continued hearing.

386-74-BZ

APPLICANT – Stadtmauer Bailkin/Steve Sinacori, for Riverside Radio Dispatcher, Inc., owner.

SUBJECT – Application October 19, 2005 – Reopening for an amendment to Z.R. 72-21 a Variance application to permit the erection of a one story building for use as an automobile repair shop which is not a permitted use. The proposed amendment pursuant to ZR 52-35 for the change of use from one non-conforming use (Automotive Repair Shop UG16) to another non-conforming use (Auto Laundry UG16) is contrary to the previously approved plans. The premise is located in C4-4 zoning district.

PREMISES AFFECTED – 4184/4186 Park Avenue, east side of Park Avenue, between East Tremont Avenue and 176th Street, Block 2909, Lot 8, Borough of The Bronx.

COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Richard Bowers and Luis Facunde.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Abstain: Commissioner Collins.....1

ACTION OF THE BOARD – Laid over to January 31, 2006, at 10 A.M., for decision, hearing closed.

43-99-BZ

APPLICANT – Windels Marx Lane and MittenDorf, LLP., for White Castle Systems, Inc., owner.

SUBJECT – Application November 22, 2005 – Extension of Term/Waiver/Amendment to a previously granted special permit for a drive-through facility accessory to an eating and drinking establishment for an additional term of five years. The amendment is to install and electronic amplification menu board. The premise is located in a C1-2 in an R-4 zoning district.

PREMISES AFFECTED – 38-02 Northern Boulevard, southwest corner formed by the intersection of Northern

Boulevard, Block 1436, Lot 1, Flushing, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Oliver Eichhorn and Jeanine Margiano.

ACTION OF THE BOARD – Laid over to February 14, 2006, at 10 A.M., for continued hearing.

APPEALS CALENDAR

53-05-A

APPLICANT – The Agusta Group, for Tom George, owner.
SUBJECT – Application filed on March 4, 2005 – Proposed construction of a three story residential and a four story mixed use building fronting Forest Avenue, which lies partially in the bed of a mapped street (Greene Avenue) which is contrary to Section 35 of the General City Law.

PREMISES AFFECTED – 62-41 Forest Avenue, East Side of Forest Avenue, 216’ of Metropolitan Avenue, Block 3492, Lot 25, 28, 55, 58, (tentative, Lot 25), Borough of Queens.

COMMUNITY BOARD#5Q

APPEARANCES –

For Applicant: I. Korman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 10, 2005, acting on Department of Buildings Application No. 402039487, reads:

“Proposed building located partially within the mapped but unimproved section of Greene Avenue is contrary to General City Law Section 35 and requires approval at the NYC Board of Standards and Appeals”; 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 January 10, 2006; and

WHEREAS, by letter dated November 4, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 15, 2005, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

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

WHEREAS, Community Board 5, Queens, opposed this application, stating that it was concerned that the proposed development would be out of scale with the character of the community; and

WHEREAS, the Board notes that its grant herein only

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pertains to the ability to build within the bed of a mapped street, and that all construction must conform and comply with applicable zoning regulations; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 10, 2005, acting on Department of Buildings Application No. 402039487, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received December 22, 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, January 10, 2006.

191-05-A/192-05-A

APPLICANT – Eric Palatnik, P.C., for Juliana Forbes, owner.

SUBJECT – Application filed on August 15, 2005 – Proposed construction of a two - two story, two family dwellings, which lies partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 12-09 116th Street, and 12-11 116th Street, at the intersection of 116th Street and 12th Avenue, Block 4023, Lots 44 and 45, Borough of Queens.

COMMUNITY BOARD #7Q

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

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated August 10, 2005 acting on Department of Buildings Application Nos. 402188066 and 402188057, reads:

“Proposed new building in the bed of a mapped

street is contrary to General City Law Number 35; Refer to BSA requirements”; and

WHEREAS, a public hearing was held on this application on December 6, 2005 after due notice by publication in the *City Record*, and then to closure and decision on January 10, 2006; and

WHEREAS, by letter dated October 20, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated October 3, 2005, the Department of Transportation has reviewed the project and has recommended that the applicant provide the following: a ten foot side walk in front of the properties and adequate drainage facilities within the lots to prevent storm water draining into the street; and

WHEREAS, by letter dated December 27, 2005, the applicant states that it has agreed to the DOT recommendations and will provide the ten foot sidewalk in front of the properties and show sidewalks on the Builder’s Pavement Plan; and

WHEREAS, the applicant has also agreed to provide slope grades changes for site drainage internally to area drains and drywells on site, to prevent storm site water from draining into the street; and

WHEREAS, accordingly, the applicant revised the site plan to reflect the ten foot sidewalk and the drainage facilities; and

WHEREAS, by letter dated September 16, 2005, the Department of Environmental Protection states that it has reviewed the project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated August 10, 2005, acting on Department of Buildings Application Nos. 402188066 and 402188057, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received December 27, 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, January 10, 2006.

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376-04-A/377-04-A

APPLICANT – Robert A. Caneco, R.A., for Al Sala, owner.
SUBJECT – Application filed November 29, 2004 – to construct two one family homes with built in two car garage not fronting a legally mapped street is contrary Section 36, Article 3 of the General City Law.

PREMISES AFFECTED – 238 and 240 Billiou Street, s/s Billiou Street, 280.00’ west of Billiou Street and Arbutus Avenue, Block 6559, Lots 130 and 133.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Robert A. Caneco.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Abstain: Commissioner Collins.....1

ACTION OF THE BOARD – Laid over to January 24, 2006, at 10 A.M., for decision, hearing closed.

319-05-A

APPLICANT – Gary Lenhart for Breezy Point Cooperative, owner Judith & Michael Scotko, lessee.

SUBJECT – Application November 2, 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 – 5 Kildare Walk, E/S Kildare Walk 64.67 S/O Oceanside Avenue, Block 16350 part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Abstain: Commissioner Collins.....1

ACTION OF THE BOARD – Laid over to January 24, 2006, at 10 A.M., for decision, hearing closed.

324-05-BZY/348-05-A

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Perry Street Development Corp., c/o Richard Born, Hotel Wellington, owners.

SUBJECT – Application November 10, 2005 – Proposed extension of time to complete construction pursuant to Z.R. 11-332 for 2-story residential addition to an existing 6-story commercial building. Appeal case is seeking a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior C6-2 zoning district. Current Zoning District is R6A

(C1-5) and (C1-7).

PREMISES AFFECTED – 164-172 Perry Street, midblock portion of block bounded by Perry, Washington and West Streets and Charles Lane, Block 637, Lots 13 and 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Gary R. Tarnoff.

For Opposition: Andrew Berman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Abstain: Commissioner Collins.....1

ACTION OF THE BOARD – Laid over to January 31, 2006, at 10 A.M., for decision, hearing closed.

326-05-BZY/328-05-A

APPLICANT – Greenberg Traurig, LLP by Deirdre Carson, for 163 Charles St. Realty, LLC., owner.

SUBJECT – Application November 10, 2005 – Proposed extension of time to complete construction pursuant to Z.R. §11-331 for the alteration and enlargement of the building. Appeal case is seeking a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior C6-2 zoning district. Current Zoning District is R6A and (C1-5).

PREMISES AFFECTED – 163 Charles Street, lot fronting on Charles Lane between West and Washington Streets, Block 637, Lot 42, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Deirdre Carson.

For Opposition: Andrew Berman and C. Corljo.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Abstain: Commissioner Collins.....1

ACTION OF THE BOARD – Laid over to January 31, 2006, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 11:30 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, JANUARY 10, 2006
1:30 P.M.**

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

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ZONING CALENDAR

296-04-BZ

CEQR #05-BSA-037M

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

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

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

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Irv Minkin.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING –

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

THE VOTE TO CLOSE HEARING –

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0
Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated October 7, 2005, acting on Department of Buildings Application No. 102666394, reads:

“The lot coverage exceeds that permitted by section 23-145 and 35-23 of the Zoning Resolution for Quality Housing”; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a C6-1 zoning district, the proposed legalization of a mixed-use residential/commercial building, which does not comply with Quality Housing zoning requirements for lot coverage, contrary to Z.R. §§ 23-145 and 35-23; and

WHEREAS, a public hearing was held on this application on February 15, 2005 after due notice by publication in the *City Record*, with continued hearings on May 10, 2005, and August 9, 2005, and then to decision on December 6, 2005; the decision was then deferred to January 10, 2006; 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 3, Manhattan, and the Borough President recommend approval of this application; and

WHEREAS, the original version of this application requested relief from applicable Floor Area Ratio (FAR), Open Space Ratio (OSR), and interior density requirements, set forth at ZR §§ 23-142, 35-23, 23-22 and 35-40, based upon a height-factor zoning analysis; and

WHEREAS, after taking instruction from the Board, the applicant modified the application to: (1) decrease the amount of units from 14 to 11; and (2) reflect a Quality Housing development and analysis; these two changes reduced the amount of variances to only the requested lot coverage waiver; and

WHEREAS, the site is a through lot located between Orchard and Allen Streets, on the block bounded by Delancey and Rivington Streets; and

WHEREAS, the site is 25’ wide by 87’-7” deep, and has a total lot area of 2,189 sq. ft.; and

WHEREAS, the site is improved upon with a five-story, 49’-1” high mixed-use residential/commercial building, with ground floor retail, and currently 14 residential units on floors two through five; and

WHEREAS, the applicant represents that the site was previously occupied by a five-story Old Law Tenement; and

WHEREAS, the applicant states that in 1934, floors two through five were removed; and

WHEREAS, the applicant further states that in 1999, DOB approved plans for the restoration of these floors, with a 14 ft. extension at the second floor; the plans reflected 14 Use Group 2 residential units; and

WHEREAS, a permit was issued and work was completed in January 2002; and

WHEREAS, a subsequent DOB audit revealed that the building as constructed did not comply with applicable OSR requirements; and

WHEREAS, the applicant states that in December of 2003, DOB authorized a waiver of the OSR objection in conjunction with a change in use from Use Group 2 residences to Use Group 5 hotel, and also allowed construction of an additional floor; and

WHEREAS, however, a hotel was not deemed financially feasible due to lease termination issues, as well as structural alteration issues that would arise from the need to create certain public areas required in hotels; and

WHEREAS, the applicant subsequently filed the instant variance application, seeking relief from the OSR requirement, as well as the above-mentioned FAR and interior density requirements; and

WHEREAS, after modifying the initial application to eliminate all but the lot coverage waiver request, the applicant now proposes the legalization of a building with the following bulk parameters: (1) an FAR of 4.37 (6.0 is the maximum permitted); (2) a total floor area of 9,575 sq. ft. (13,137 sq. ft. is the maximum permitted); (3) eleven dwelling units (a permitted amount); (4) a height of 49’-1” (60’-0” is the maximum permitted); and (5) a non-complying lot coverage of 100% at the second floor, and 84% on the remaining floors (65% is the maximum permitted); and

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WHEREAS, the Board observes that the proposed uses – residential and commercial – are permitted on the site because the C6-1 zoning district is an R7 zoning district equivalent for residential purposes; and

WHEREAS, thus, the use and bulk of the building will comply with applicable zoning parameters, except for Quality Housing lot coverage regulations; and

WHEREAS, the applicant has presented various arguments in support of the claim that the site suffers from unique physical conditions that prevented compliance with the applicable bulk regulations; and

WHEREAS, specifically, the applicant states that: (1) the site was previously occupied by a multiple dwelling with bulk comparable to that being requested in the instant application; (2) the proposed bulk of the building is comparable to that of adjacent buildings; (3) other conforming uses allowed in the subject zoning district would impose greater loads on the party walls, necessitating the installation of columns that would decrease first floor sales area; and (4) vast expenditures were made in good faith reliance upon the initial building permit; and

WHEREAS, leaving aside the factual accuracy of these various arguments, the Board finds that none of the claimed bases of uniqueness has a nexus with the requested lot coverage relief; and

WHEREAS, instead, the Board finds that it is the site's narrowness (25'-0" in width) and shallowness (87'-7" in depth) and the fact that it is a through lot that makes compliance with the applicable lot coverage provisions difficult; and

WHEREAS, the Board notes that typically through lots are 200'-0" in depth; and

WHEREAS, the Board also notes that because the site is a through lot, no rear yard is required; and

WHEREAS, however, if the applicant complied with the Quality Housing lot coverage requirements, open space would exist on the site; and

WHEREAS, this open space would meet the definition of an "outer court" as set forth in Z.R. §12-10; and

WHEREAS, this definition reads: "an 'outer court' is any open area, other than a yard or portion thereof, which is unobstructed from its level to the sky and which, except for one opening upon (a) a front lot line; (b) a front yard; (c) a rear yard; or (d) any open area along a rear lot line, or along a side lot line having a width or depth of at least 30 feet, and which open area extends along the entire length of such rear or side lot line; and is bounded by the building walls, or building walls and one or more lot lines other than a front lot line."; and

WHEREAS, here, if a building fronting on Allen Street was built with complying lot coverage and a complying street wall, an area that meets the definition of "open court" would result on the Orchard Street side; and

WHEREAS, however, the "open court" would only be 25 ft. wide due to the width of the lot, and thus it would be subject to special outer court regulations for narrow lots set forth at Z.R. § 23-841; and

WHEREAS, Z.R. §23-841 provides that in an R7

equivalent district, "if an outer court is less than 30 ft. wide, the width of such outer court shall be at least one and one-third the depth of such outer court; and

WHEREAS, thus, any outer court has a required depth of at least 18 ft., which could not be achieved on the site if the development complied with the maximum lot coverage; and

WHEREAS, since DOB can not permit the creation of a non-complying outer court, the applicant requires lot coverage relief; and

WHEREAS, the Board notes that that this analysis holds true regardless of the street wall location; and

WHEREAS, pursuant to Z.R. §35-24(b), for a mixed-use building with a Quality Housing residential component, at least 70% of the aggregate width of street walls shall be located within eight feet of the street line; and

WHEREAS, whether the street wall was located on the street line, eight feet off of the street line, or at some point in between, if a building was developed with complying lot coverage, a non-complying outer court would be created; and

WHEREAS, the Board further observes that while a pure residential building could be developed without regards to the mixed-use building street wall requirement, such a building would be severely under-built in terms of floor area due to the applicable lot coverage requirement; a pure residential building, as discussed further below, would not be financially viable; and

WHEREAS, finally, the Board observes that the narrowness and depth of the lot also makes compliance with height-factor zoning impractical since the limits of the lot width make any open space non-complying; and

WHEREAS, accordingly, the Board finds that the site's width, depth and status as a through is a unique physical conditions that creates practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, since the Board finds this basis of uniqueness sufficient to sustain the uniqueness finding, the Board declines to address the applicant's good faith reliance argument; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following three complying development scenarios: (1) a complying transient hotel, with a retail component; (2) a complying commercial office building with ground floor retail; and (3) a complying residential building with ground floor retail; and

WHEREAS, at hearing, the Board asked for a more refined study, analyzing a broader range of scenarios, and not including in the analysis those costs related to the demolition of the existing non-complying building; and

WHEREAS, in response, the applicant submitted a revised study analyzing the following four scenarios: (1) a three-story "walk-up" apartment building; (2) a four-story "walk-up" apartment building; (3) a six-story residential elevator building; and (4) a seven-story residential elevator building; and

WHEREAS, the study, which did not include demolition costs, concluded that none of these scenarios

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realized a reasonable return; and

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

WHEREAS, the applicant represents that the proposal, if granted, will not affect the character of the neighborhood, impair adjacent uses, nor be detrimental to the public welfare; and

WHEREAS, the applicant states that the neighborhood surrounding the site is comprised of mixed-use buildings, with ground floor retail use and upper floor residential use; and

WHEREAS, the applicant further states that the other multiple dwellings in the area all have lot coverages of between eighty and one hundred percent; and

WHEREAS, the Board observes that aside from the lot coverage non-compliance, the building complies and conforms in all respects to the requirements of the subject zoning district, and that legal light and air to the units is not compromised; and

WHEREAS, the Board observes that although the applicant constructed the building prior to filing the instant variance application, the hardship relates to the width, depth and through lot status of the site rather than the existing building; and

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

WHEREAS, as noted above, the applicant reduced the amount of units and modified the zoning analysis, such that the only waiver requested is for Quality Housing lot coverage; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; 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. 05BS037M, dated November 30, 2004; and

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

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 in accordance with 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. §72-21, to permit, within a C6-1 zoning district, the proposed legalization of a mixed-use residential/commercial building, which does not comply with Quality Housing zoning requirements for lot coverage, contrary to Z.R. §§ 23-145 and 35-23; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 28, 2005"--(11) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as follows: (1) a commercial FAR of 1.0; (2) a residential FAR of 3.37; (3) a total FAR of 3.37; (4) a lot coverage of 100% at the second floor, and 84% on the third through fifth floors; (5) eleven dwelling units; and (6) a height of 49'-1";

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

THAT recreation space and street trees shall be provided as indicated on the BSA-approved plans;

THAT the proposed building shall comply with all applicable Quality Housing provisions, as reviewed and approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, January 10, 2006.

344-04-BZ

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

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

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

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Alfonso Duarte.

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ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated October 18, 2004, acting on Department of Buildings Application No. 401624444, reads:

“Proposed use of open lot for sale of automobiles contrary to Sect. 32-25 Z.R.”; and

WHEREAS, a public hearing was held on this application on September 27, 2005 after due notice by publication in the *City Record*, with continued hearings on November 15 and December 13, 2005, and then to decision on January 10, 2006; 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 disapproval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in a C2-2 zoning district within an R3-2 zoning district, the proposed use of an open lot for the sale of new and used automobiles, contrary to Z.R. § 35-25; and

WHEREAS, the premises is located on the northeast corner of Northern Boulevard and 202nd Street; and

WHEREAS, the subject zoning lot is a trapezoidal-shaped lot with frontages of approximately 72 ft. on 202nd Street and approximately 95 ft. on Northern Boulevard, and has a total lot area of approximately 8,252 sq. ft.; and

WHEREAS, on February 16, 1965, the Board approved a variance for the site to permit the maintenance of an automotive sales lot in conjunction with a proposed automotive retail establishment for a term of five years; and

WHEREAS, the variance was extended for a term of ten years on February 16, 1970; and

WHEREAS, on October 28, 1980, the Board denied a further extension of the term of the variance; the resolution states that the Board requested at several public hearings that the premises be cleaned of debris and weeds and that a full width sidewalk be installed on Northern Boulevard and 202nd Street before a decision be made; and

WHEREAS, the applicant represents that the lot and sidewalk on 202nd Street is now cleared of weeds and debris and that a full width sidewalk was installed on Northern Boulevard; and

WHEREAS, the applicant represents that the property has been used sporadically since the 1980 denial; in 1985, it was used as additional parking for an adjacent convenience store for a term of two-and-one-half years; in 1995, it was used to store inventory for an automobile showroom located across the street for six years; and in 2002, it was leased to a car dealer located

across the street for storage of vehicles; and

WHEREAS, the applicant represents that the following are unique physical conditions inherent to the zoning lot, which create practical difficulties and unnecessary hardship in developing the site with a conforming use: (1) the lot is small and irregularly shaped; (2) the lot is located on an arterial highway; and (3) the lot has a history of development consistent with the proposed use; and

WHEREAS, the applicant represents that due to the small size of the lot and its irregular shape, the lot is not conducive for commercial uses that prevail in the area (i.e., establishments with drive-thru facilities); and

WHEREAS, specifically, the applicant represents that the owner was contacted by a fast-food restaurant interested in leasing the property, but the restaurant declined to enter into a lease because it determined that due to the site’s small size and irregular shape it was not feasible to construct a drive-thru facility on the site; and

WHEREAS, the Board asked the applicant to provide additional information about the sizes of sites surrounding the subject lot; and

WHEREAS, in response, the applicant submitted a survey of 15 sites located along Northern Boulevard; the survey reflects that most of the sites are at least 10,000 sq. ft., and the few sites that are similarly-sized are rectangular rather than trapezoidal; in addition, only two of the sites surveyed are vacant; and

WHEREAS, the applicant also notes that the Board granted a variance on this lot in the past, and as part of such grant the Board determined that the site was unique; and

WHEREAS, the Board notes that since 1965, the property has been actively used as an automotive sales lot or for parking/storage for a total of approximately 27 years; and

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

WHEREAS, the applicant represents that after the Board denied an extension of the variance in 1980, the owner placed a “Build to Suit” sign on the premises, but only received calls from persons who desired to use the property for the sale of automobiles; and

WHEREAS, the applicant further represents that the property was unsuccessfully listed with brokers for a period of approximately ten years; and

WHEREAS, the applicant has submitted letters from two local real estate agents that state that in their opinion a feasible use of the subject property is for automotive sales, due to the configuration of the lot and the limited opportunity for accessory parking on-site if a building were to be constructed; and

WHEREAS, the applicant has also submitted the addresses of six new buildings currently being erected along Northern Boulevard; the buildings are all being constructed on lots between approximately 10,000 sq. ft. and 20,000 sq. ft. in lot area; and

WHEREAS, the applicant has submitted a feasibility

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study analyzing an as-of-right one-story commercial building; the study states that such a conforming building would not result in a reasonable return; and

WHEREAS, the Board initially questioned the comparables which were used in the feasibility study; the applicant responded that a search of public records revealed that only three verifiable vacant land sales within two miles of the site had occurred within the last two years; and

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

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

WHEREAS, the applicant represents that Northern Boulevard is an arterial highway and that at least five businesses near the site on Northern Boulevard between Francis Lewis Boulevard and the Clearview Expressway sell new and used cars; and

WHEREAS, the applicant has submitted a land use map that shows that the subject site is surrounded by automotive sales uses and other commercial uses, except for a residential use abutting a small portion of the site at the rear; and

WHEREAS, the applicant represents certain recommendations made by the zoning committee of the Community Board will be implemented, including the following: install new sidewalk; no repairs or servicing of autos on the site; washing of cars to be limited to keeping cars clean and will be done by hose and hand; no gas pumps will be installed; maximum number of cars on-site shall be limited to 30; hours of operation shall be from 10AM to 6PM Monday through Saturday; barbed wire or razor wiring will not be installed and any existing barbed or razor wire will be removed; and the lot will be kept free of dirt and debris; and

WHEREAS, the applicant has also agreed to a ten year term; and

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

WHEREAS, this proposal is the minimum necessary to afford relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; 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. 05BSA125Q dated June 25, 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 C2-2 zoning district within an R3-2 zoning district, the proposed use of an open lot for the sale of new and used automobiles, for a term of ten years from January 10, 2006, to expire on January 10, 2016, contrary to Z.R. § 35-25; *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 December 19, 2005"-(1) sheet; and *on further condition*:

THAT this variance shall be for a term of ten years, to expire on January 10, 2016;

THAT the maximum number of cars permitted on-site is 30;

THAT the hours of operation shall be from 10AM to 6PM Monday through Saturday;

THAT no repairs or servicing of automobiles shall take place on site;

THAT washing of cars shall be conducted only by hose and hand;

THAT no gas pumps shall be installed on the site;

THAT barbed wire or razor wiring will not be installed and any existing barbed or razor wire will be removed;

THAT the lot shall be kept free of dirt and debris;

THAT lighting shall be directed away from all residences;

THAT sidewalks shall be installed as indicated on the BSA-approved plans, and maintained in good repair

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

THAT the existing curb cut on 202nd Street shall be eliminated and the curb restored;

THAT the size and location of the proposed office

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trailer shall be as approved by the Department of Buildings;

THAT the layout of the property, location and size of the curb cut and fence shall be as approved by the Department of Buildings;

THAT all signage shall comply with C1-2 zoning regulations;

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, January 10, 2006.

380-04-BZ

APPLICANT – Sheldon Lobel, P.C., for BK Corporation, owner.

SUBJECT - Application November 29, 2004 – under Z.R. §72-21 to permit the legalization of the conversion of one dwelling unit, in a new building approved exclusively for residential use, to a community facility use, in an R5 zoning district, without two side yards, is contrary to Z.R. §24-35.

PREMISES AFFECTED – 32-12 23rd Street, bounded by 33rd Avenue and Broadway, Block 555, Lot 36, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Irvine Minkin and Thomas Cusanelli.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Abstain: Commissioner Collins.....1

Adopted by the Board of Standards and Appeals, January 10, 2006.

399-04-BZ

CEQR #05-BSA-077M

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

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

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

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Melaney McMornly.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated January 27, 2005, acting on Department of Buildings Application No. 103670029, reads:

1. The proposed addition of new 6th and 7th floors for residential use of Joint Living Work Quarters for Artists (Use Group 17D) in M1-5B is not permitted and is contrary to Z.R. 42-14(D).
2. The proposed change in use on the first floor from a “Wholesale Establishment” (Use Group 16) to “Retail Use” (Use Group 6) in M1-5B is not permitted and is contrary to Z.R. 41-14(D).
3. The proposed Physical Culture Establishment on first floor and cellar requires BSA approval as per Z.R. 73-36.
4. The proposed accessory parking is not permitted and is contrary to Z.R. 13-12(a).”; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a lot within an M1-5B zoning district: (1) the proposed construction of partial sixth and seventh stories on an existing five story plus mezzanines, cellar and sub-cellar building, to be occupied by Joint Living Work Quarters for Artists (Use Group 17D) (“JWLQA”); (2) use of the first floor and cellar level for retail use (Use Group 6); and (3) use of the sub-cellar for 10 accessory parking spaces, contrary to Z.R. §§ 42-14(D), 41-14(D), and 13-12(a); and under Z.R. § 73-36, to

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permit a Physical Culture Establishment (“PCE”) at the cellar level; and

WHEREAS, a public hearing was held on this application on July 26, 2005, 2005, after due notice by publication in the *City Record*, with continued hearings on September 13, 2005, October 18, 2005, and November 29, 2005, and then to decision on January 10, 2006; 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 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject premises is located at the southeast corner of Broome and Crosby Streets, and consists of a 50 by 100 ft. corner lot and a 50 by 19 ft. interior lot, with a total lot area of 5,991 sq. ft.; and

WHEREAS, the site has 50’1” of frontage on Broome Street and 119’-1” of frontage on Crosby Street; and

WHEREAS, the property is currently improved upon with a five-story building, with a non-complying Floor Area Ratio (“FAR”) of 5.16, with the following legal uses: sub-cellar – “agriculture (bean sprout farm)”; cellar, first floor and first floor mezzanine – “wholesale uses”; and floors two through five – “JLWQA, with accessory storage on each of the mezzanines”; and

WHEREAS, the applicant represents that the ground floor, cellar and sub-cellar are currently vacant; and

WHEREAS, the applicant further represents that the upper floors contain ten JWLQA units, which are considered lawful non-conforming uses due to the date that the building was converted; and

WHEREAS, the applicant states that only two of the units are currently occupied, and both have rent stabilized Interim Multiple Dwelling status; and

WHEREAS, the applicant proposes to enlarge the existing building by approximately 6,730 gross sq. ft. through the addition of partial sixth and seventh stories; the sixth floor will also have a mezzanine; and

WHEREAS, the applicant represents that the increase in gross floor area would result from the reallocation of zoning floor area from the elimination of the first floor mezzanine, and floor space from the elimination of portions of the second and third floor mezzanines and the entire fourth and fifth floor mezzanines; and

WHEREAS, the applicant states that this increase in gross floor area results in an increase in zoning floor area of 4,713 sq. ft. to 35,630 sq. ft. overall, for a resulting FAR of 5.94; and

WHEREAS, the building once enlarged will have seven stories, a streetwall height of 78’-6”, a total height of 126-2 ½” (including bulkheads and towers); fifth floor setbacks of 10’-0” on Crosby and 15’-0” on Broome, and twelve dwelling units, all of which will be categorized as UG17 JWLQ; and

WHEREAS, ten accessory parking spaces will be located in the sub-cellar level; and

WHEREAS, the cellar and ground floor will be occupied

by a spa-type PCE, offering Use Group 6 hair and beauty services on the first floor and massage services in the cellar; and

WHEREAS, the proposed building will require the following waivers: a use waiver for the newly created JWLQA units on the proposed sixth and seventh floors (JWLQAs, while permitted as of right in M1-5B zoning districts, may not be created in new floor area); a use waiver for the Use Group 6 hair salon on the first floor and cellar levels (retail uses are not permitted below the second floor in M1-5B zoning districts); and a parking waiver to create the 10 accessory parking spaces in the sub-cellar (none are permitted as of right); and

WHEREAS, additionally, a special permit is required for the PCE; and

WHEREAS, the applicant states that because the existing building is adjacent to the Soho Cast Iron Historic District, the NYC Landmarks Preservation Commission (LPC) and the owner agreed that the enlargement of the building would proceed as if the building were a designated landmark; and

WHEREAS, thus, the two proposed stories are setback so that they are only minimally visible; additionally, the façade and fenestration will be reconstructed in a manner approved by LPC; and

WHEREAS, finally, the applicant represents that the owner of the subject premises has agreed to execute and record a light and air easement against the property to protect the light and air of the adjacent building at 423 Broome Street; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the building has structural problems that primarily are the result of the hydroponic bean sprout farm that existed in the cellar and sub-cellar for approximately twenty years, as well as the installation of oversized rooftop water tanks; (2) mold exists in the lower levels of the building, again as a result of the bean sprout farm; (3) the building has only one elevator, which is obsolete and non-functioning; (4) the building has a structurally unsound wooden stair layout that reduces usable floor area; and (5) the LPC imposed requirements as to façade treatment; and

WHEREAS, as to the first and second bases of uniqueness, the applicant states that the bean sprout operation excavated the existing concrete floor by 12” in order to increase the height of the ceiling, and dug draining trenches in the floor of the sub-cellar; and

WHEREAS, the applicant has submitted a letter from its engineering consultant that explains that significant leakage occurred from the trench system, which allowed water to filter into the sand below the building; and

WHEREAS, this leakage in turn resulted in erosion of the soil, which caused the wooden ceiling beams to separate from the building walls, and also caused cast iron beams on the first floor to separate; and

WHEREAS, these structural elements were already compromised due to the extensive mold growth that occurred because of the moist environment that the bean sprout operation required; and

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WHEREAS, the applicant estimates that remedying these problems will cost approximately 1.2 million dollars; and

WHEREAS, as to the third basis of uniqueness, the applicant states that the elevator is an obsolete hydro-powered model that has not functioned for over 25 years, and which even if rehabilitated, could not support conforming uses; and

WHEREAS, in support of the contention that the elevator may properly be considered a contributing unique hardship, the applicant cites to past Board cases where the Board found that obsolete elevators were part of the hardship; and

WHEREAS, as to the fourth basis of uniqueness, the applicant states that the existing wood stairwell does not comply with modern Building Code standards, and, because of the structural damage, a replacement stair must be built upon an entirely new structural support system; and

WHEREAS, the applicant further states that the location of the stair in a long hallway running along the western wall of the building uses up a significant amount of floor area that could otherwise be used; and

WHEREAS, as to the fifth basis of uniqueness, the applicant states that the LPC-imposed façade improvements result in a significant premium cost over and above what the owner would have spent had no such requirements been imposed; specifically, the applicant states that the differential costs for the façade treatment and fenestration total approximately \$620,000; and

WHEREAS, the Board initially questioned these alleged bases of unique hardship, in that certain of them appeared to represent mere maintenance issues common to most buildings of comparable age and condition in the neighborhood; and

WHEREAS, however, the applicant subsequently submitted a more refined statement of facts and findings that went into specific detail as to why the cited conditions were in fact unique to the building and should be considered actual hardships; as discussed above, the applicant also submitted testimony from an engineer and the owner in support of these contentions; and

WHEREAS, the Board has reviewed the new statement and the supporting documentation and agrees with the applicant that the cited conditions are unique and do impose a hardship in using the building for a conforming development in terms of the premium costs that must be incurred to address them; and

WHEREAS, the Board further observes that the applicant has shown that the cited unique factors and resulting hardship costs are not related to the rehabilitation of the building or ongoing maintenance; and

WHEREAS, finally, the Board notes that the parking waiver accommodates an accessory parking garage that increases overall revenue from the project, thereby addressing the cited hardship costs; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility

study analyzing the following as-of-right scenario: the renovation of the existing five-story building, with commercial use on the first floor and first floor mezzanine levels, and JWLQA units on the second through fifth floors; and

WHEREAS, the applicant concluded that such a scenario would result in a loss; and

WHEREAS, however, the Board had concerns regarding certain aspects of this study; and

WHEREAS, specifically, the Board questioned whether the analysis of the site valuation should reflect a reduction of the value of the existing mezzanine areas, given that they are not full floors; and

WHEREAS, the applicant revised the analysis and valued the mezzanines at 75% of the value of the non-mezzanine areas, which reduced the site valuation; and

WHEREAS, the Board also asked the applicant to address whether the reduced value of the existing IMD units should have been accounted for in the site valuation; and

WHEREAS, the applicant responded that it assumed full market value for the IMD units in calculating return, even though such value was not achieved; therefore, the applicant did not feel it was appropriate to modify the site valuation to reflect their lesser actual value; and

WHEREAS, the Board also requested that the cost of, and the profit to be derived from, the sub-cellar parking be folded into the feasibility study for the proposal; and

WHEREAS, the applicant showed that the parking facility would be a profitable aspect of the project, in light of the construction costs related to the parking facility and the anticipated operating income; and

WHEREAS, finally, at the request of the Board, the applicant, in order to demonstrate the need for the requested variance, prepared a comparative analysis of an alternative non-conforming development with and without the inclusion of the above-mentioned hardship costs; and

WHEREAS, this analysis showed that without the hardship costs, this alternative non-conforming development would in fact be a viable development scenario; however, when the costs were included, such a scenario was not viable; and

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

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant notes that the proposed addition will be setback from the streets such that it will only be visible from the rear of the building; and

WHEREAS, the applicant also notes that the building will be rehabilitated in terms of façade and fenestration as if it were a designated landmark, with the approval of LPC and local landmark advocacy groups; and

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WHEREAS, the applicant further states that the introduction of two new JLWQA units and ten parking spaces will not negatively impact the character of the neighborhood or create any adverse impacts, and is consistent with the scale of, and uses in, the neighborhood; and

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

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

WHEREAS, during the course of the hearing process, the Board asked the applicant to provide a financial analysis of an alternative scenario, which was a six-story building that would retain the floor area that would have been used for a seventh floor as mezzanines; the applicant analyzed such a scenario and concluded that it would not generate a viable return; and

WHEREAS, the Board also observed that an earlier version of the proposal included a seventh floor mezzanine in a building with a greater total FAR; at the request of the Board, this mezzanine was reduced; and

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

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

WHEREAS, additionally, the applicant has addressed the findings required by ZR § 73-36 for the PCE special permit; and

WHEREAS, specifically, the applicant states that the PCE will have facilities for a variety of body treatment and beauty services including manicure, pedicure, facials, waxing and massage; and

WHEREAS, the applicant states that all masseurs and masseuses employed by the facility are New York State licensed masseurs and masseuses; and

WHEREAS, the applicant states that the spa will be located partially on the ground floor, which is comparable to many other buildings in the area, which also have ground floor retail uses; and

WHEREAS, the applicant cites to the adjacent building on Broome Street, which has a clothing store on the ground floor, as well as the next building, the ground floor of which is being renovated for retail use; and

WHEREAS, the applicant also states that there are other PCEs in the SoHo neighborhood; and

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

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

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

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

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

WHEREAS, the project is classified as a Type I action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; 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. 05BSA077M dated December 22, 2004; and

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

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 under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. § 72-21 and grants a variance to permit, on a lot within an M1-5B zoning district: (1) the proposed construction of partial sixth and seventh stories on an existing five story plus mezzanines, cellar and sub-cellar building, to be occupied by Joint Living Work Quarters for Artists (Use Group 17D) (“JWLQ”); (2) use of the first floor and cellar level for retail use (Use Group 6); and (3) use of the sub-cellar for 10 accessory parking spaces, contrary to Z.R. §§ 42-14(D), 41-14(D), and 13-12(a); and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-03 and grants a special permit for a Physical Culture Establishment at the cellar level, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received December 27, 2005”-(5) sheets and “Received January 6, 2006”-(8) sheets; and *on further condition*:

THAT the term of the special permit grant shall be for ten years, from January 10, 2006, expiring on January 10, 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;

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THAT the hours of operation shall be limited to 10AM to 9 PM daily;

THAT all massages shall be performed by New York State licensed individuals only;

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

THAT Local Law 58/87 compliance as to the physical culture establishment shall be as reviewed and approved by DOB;

THAT fire safety measures in the physical culture establishment, 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 the following shall be the bulk parameters of the proposed building: a residential FAR of 5.14; a commercial FAR of 0.8; a total FAR of 5.94; seven stories; a street wall height of 78'-6"; a total height of 126-2 1/2" (including bulkheads and towers); twelve dwelling units; fifth floor setbacks of 10'-0" on Crosby Street and 15'-0" on Broome Street; and ten parking spaces in the sub-cellar;

THAT all mechanical deductions shall be as reviewed and approved by the Department of Buildings;

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

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

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

Adopted by the Board of Standards and Appeals, January 10, 2006.

48-05-BZ

CEQR #05-BSA-103M

APPLICANT – Wachtel & Macyr, LLP for Bethune West Associates, LLC, contract vendee.

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

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

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jerry Johnson.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated December 1, 2005, acting on Department of Buildings Application No. 104044133, reads:

“The proposed mixed use building located on a zoning lot divided by a district boundary between a C1-7A zoning district and a C1-6A zoning district does not comply with the bulk regulations regarding floor area ratio (ZR 23-145, 33-122, 35-31) lot coverage (ZR 23-145) side yards (ZR (23-46, 33-35) and height and setback (ZR 23-633, 33-431, 35-24) and provides for accessory off-street parking spaces that exceeds that permitted by the Resolution (ZR 13-12).”; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a lot partially within a C1-7A zoning district and partially within a C1-6A zoning district, the proposed construction of a fifteen and three story mixed-use residential/commercial building, with ground floor retail and an underground accessory parking garage, which does not comply with applicable requirements for floor area ratio (“FAR”), lot coverage, side yards, height and setback, and off-street parking, contrary to Z.R. §§ 23-145, 33-122, 35-31, 23-46, 33-35, 23-633, 33-431, 35-24 and 13-12; and

WHEREAS, a public hearing was held on this application on September 28, 2005, after due notice by publication in the *City Record*, with continued hearings on November 2, 2005, November 29, 2005 and then to decision on January 10, 2006; 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, the subject premises is an irregular “L”-shaped lot, with a lot area of approximately 32,106 sq. ft., with 160'-0" of frontage along West Street (a wide street, a/k/a the West Side Highway, 124'-0" along West 12th Street (a narrow street), and 278'-0" along Bethune Street (a narrow street); and

WHEREAS, the property is currently improved upon with a two and three story building fronting on West Street, with an open parking and loading area in the rear, accessible through Bethune Street; and

WHEREAS, the existing building has most recently been occupied by the Superior Printing and Ink Company, which is vacating the property; and

WHEREAS, upon filing, the site was located in an M1-5 zoning district; thus, the requested relief was a variance to allow

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residential use, as well as a waiver of the accessory off-street parking requirements; and

WHEREAS, as filed, the original proposal was for a building with the following parameters: a total FAR of 6.5; a total building height of 224'-7", base heights of 84'-5" along West Street and 37'-4" to 40'-4" along the side streets; and 103 units; and

WHEREAS, the proposal included a 20-story curvilinear residential tower component, which was located setback from West Street and Bethune Street at varying depths ranging from 10 to 27 ft.; and

WHEREAS, however, on October 11, 2005, the City Council adopted the Far West Village Zoning Map amendment, which changed the zoning of the site to partially C1-7A (the western 100 ft. along West Street) and partially C1-6A (the remainder of the lot); and

WHEREAS, the applicant subsequently modified its application, eliminating the use waiver request; and

WHEREAS, the building proposed in the first modified application had the following parameters: 15 stories; a total FAR of 5.24; a total building height of 188'-11", base heights of 82'-11" along West Street and 38'-11" along the side streets; and 60 units; and

WHEREAS, in this first modified version, the residential tower was located almost in the same location as in the original version, setback approximately 15 ft. from West Street; and

WHEREAS, however, in response to a suggestion of the Board that the total FAR be reduced and in response to concerns of community members as to the placement of the residential tower, the applicant modified the proposal a second time; and

WHEREAS, the applicant now proposes to construct a mixed-use mid-rise 15-story plus penthouse building fronting on West Street midway between Bethune and West 12th Streets, with a three-story base at the corners formed by the intersection of West Street with the two side streets, a twelve story residential tower centered along West Street, setting back approximately 35 ft. from West 12th Street and 25 ft. from Bethune Street, and a series of five three-story townhouses fronting on Bethune Street; and

WHEREAS, the building will contain 64 total dwelling units (including the five townhouses), rise to a height of 186'-9" (including bulkheads, 173'-2" without), with a setback on the West Street side at the eighth floor, setbacks on the West 12th and Bethune Streets sides at the fourth floor, with a total FAR of 5.0, a residential FAR of 4.7, and a commercial FAR of 0.3; and with lot coverages of 89% and 98% for the corner lot portions; 61% for the through lot portion and 62% for the interior lot portion; and

WHEREAS, the Board observes that while the degree of the setbacks complies, the location of them at a lower level than required makes them non-complying; and

WHEREAS, 60 accessory parking spaces in an underground parking garage will also be provided; and

WHEREAS, Community Board 2, Manhattan, recommended disapproval of the initial version of the application, as first filed; and

WHEREAS, the following elected officials and organizations also opposed the initial application: Council Member Quinn, Assembly Member Glick, State Senator Duane, Greenwich Village Community Task Force, and Greenwich Village Society for Historic Preservation; and

WHEREAS, various neighbors of the site also appeared, expressing concerns about the envelope of the proposed building and the impact it would have on their light and air; and

WHEREAS, as mentioned above and as discussed in further detail below, the applicant modified the proposal to address these concerns; and

WHEREAS, consequently, at the most recent hearing, many of these same neighbors, and some of these elected officials, testified that the current version of the application was preferable to previous versions; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in constructing a complying building: (1) the site is a corner "L"-shaped lot with a narrow width along West Street and a narrow depth along Bethune Street, which necessitates the construction of more perimeter wall than normal, and also compromises the ability to create a complying development; (2) the site is on soil that is considered unsuitable for load-bearing materials, requiring a deeper and more extensive pile foundation system; (3) the site has a high water table (6'7" below the surface), which will require extensive dewatering and waterproofing measures; and (4) the soil of the site is contaminated, and must be remediated prior to any development; and

WHEREAS, as to the first basis of uniqueness, the applicant notes that the subject block is narrow (160' in depth from street to street versus the standard 200'), and that the eastern part of lot fronting on Bethune Street measures only 80' in depth; and

WHEREAS, the applicant notes that an as of right residential building that complies with the C1-6A and C1-7A bulk regulations would be a nine to ten story building that maintain a street wall along West Street of 85 ft., and 60 ft. along Bethune Street, and rises to a total building height of 120' on West Street and within 100' of West Street on both Bethune and West 12th Streets and 80' on the midblock portion of Bethune Street; and

WHEREAS, the applicant states that the height and setback regulations would result in a "U"-shaped configuration, and result in a "fortress-like" building with a dark interior courtyard, and would also create a canyon like effect along Bethune Street, which as noted above is a narrow street; and

WHEREAS, more importantly, the applicant notes that due to the 160' width along the West Street frontage, as well as the 80' depth along the eastern part of the Bethune Street frontage, provision of a the required 30' rear yard would result in a building along the Bethune portion of the site of only a maximum 50' in depth; as discussed below, this creates inefficient floor plates, particularly on the higher floor which are setback; and

WHEREAS, the applicant represents that this narrow

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depth is too shallow for a double loaded corridor and too deep for an efficient layout for a single loaded corridor; and

WHEREAS, to avoid this hardship, and to avoid creation of a fortress like building that would create adverse conditions along Bethune Street, height and setback waivers, as well as lot coverage and side yard waivers, are required; and

WHEREAS, as to the second basis of uniqueness, the applicant notes that the depth of the bedrock below the surface of the site varies from approximately 90' on the eastern end to 135' on the western end; and

WHEREAS, in support of this contention, the applicant has submitted a Geotechnical Engineering Evaluation, conducted by its engineering consultant, which includes an analysis of borings taken at various positions located throughout the site; and

WHEREAS, this Evaluation shows that until bedrock is reached, the soil is composed of fine sand, silt with clay, and a more granular sand, none of which is optimum load bearing material; and

WHEREAS, because of such condition and the depth of the bedrock, the consultant recommends the use of a foundation system that includes drilled piles; and

WHEREAS, however, at hearing, the Board requested that the applicant further establish that the cited soil conditions were unique to the site; and

WHEREAS, in response, the applicant provided a more detail analysis, which concluded that although other sites suffer from similar soil problems, none suffer to the degree as the site; and

WHEREAS, the Board also observes that other sites that have been recently developed are in residential zoning districts where a FAR of 6.0 is permitted and are also in tower formations; and

WHEREAS, as to the third basis of uniqueness, the applicant states that the Evaluation shows that the site is within the 100 year flood zone, and that groundwater levels vary from six to seven feet at West Street to 11 to 12 feet at the eastern end of the existing parking area; and

WHEREAS, the applicant represents that extra measures must be taken to waterproof the lower levels of the building to resist the hydrostatic pressures; and

WHEREAS, as to the fourth basis of uniqueness, the applicant states that the site's historical use as a printing establishment resulted in the contamination of the site's soil; and

WHEREAS, the applicant represents that this contamination will require remediation prior to any construction, at a cost of approximately 2.6 million dollars; and

WHEREAS, the Board recognizes that the premium costs associated with the need for a more extensive foundation system, dewatering and waterproofing, and environmental remediation necessitate a development that could realize a greater return than a complying one; and

WHEREAS, specifically, by massing the residential floor area in a tower with a non-complying height rather than distributing it in a complying streetwall building, more marketable units are created and therefore greater revenue is

generated, which is needed to overcome the above-mentioned premium costs; and

WHEREAS, the Board also notes that the parking waiver accommodates an accessory parking garage that increases overall revenue from the project, thereby addressing the cited hardship costs; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in compliance with the current applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing certain as-of-right alternatives that existed under the M1-5 zoning; given the zoning change, such analysis is no longer relevant; and

WHEREAS, after the rezoning became effective, the applicant submitted a feasibility study that analyzed an as-of-right mixed use building; thus study concludes that a building constructed pursuant to the underlying bulk regulations of the C1-6A and C1-7A districts would not realize a reasonable return, due to the identified hardships; and

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

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant notes that each frontage of the site was designed to acknowledge the existing bulk of surrounding buildings; and

WHEREAS, the applicant states that the 15-story mid-rise component of the development is designed with a height and series of setbacks that relate to the surrounding buildings, including the those at 380 West 12th Street and the Westbeth development across Bethune Street; and

WHEREAS, the applicant states that the mid-rise portion of the building maintains the streetwall along West Street and rises to a height of seven stories and 83'-7", where it then sets back rises to 14 stories and 159'-7", which is consistent with the streetwall of the Westbeth building; and

WHEREAS, the applicant notes that the 15th story, with its mechanical penthouse, is consistent with the overall height of Westbeth; and

WHEREAS, the applicant also states that the height is consistent with newer residential developments located south of the site on West Street at Perry and Charles Streets; specifically, there are two sixteen-story buildings located on Perry Street, and a newly constructed building on Charles Street of comparable height; and

WHEREAS, the applicant notes that the eastern part of the Bethune Street portion of the site will be developed with five three-story town homes that will have 30' rear yards, and will preserve light and air to adjacent residential buildings; and

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WHEREAS, these town homes will also rise to height of approximately 40'-0", which will create a minimal impact on Bethune Street (a 50'-0" wide street), especially when compared to the height that is allowed as-of-right; and

WHEREAS, finally, the applicant states that the mid-rise portion of the building presents a front façade in all four directions, so that no adjacent neighboring building will face a rear façade; and

WHEREAS, the Board observes that the height of the streetwall along Bethune and West 12th Streets and the placement of the tower component of the development was very contentious; and

WHEREAS, as noted above, in the original version of the application, the applicant proposed a curvilinear residential tower component, which was located setback from West Street and Bethune Street at varying depths ranging from 10 to 27 ft., with a streetwall along Bethune of approximately 45 to 50 ft.; and

WHEREAS, in the current version, the streetwall along both Bethune and West 12th Streets is at approximately 40 ft., and the tower is centered along West Street, setting back approximately 35 ft. from West 12th Street and 25 ft. from Bethune Street; and

WHEREAS, while this configuration results in a streetwall waiver along West 12th and Bethune Streets within 100 ft. of West Street (where a 60 ft. minimum streetwall height is required), the lower streetwall compensates for the increased height of the tower in providing light and air to the surrounding residential developments, and also is more consonant with the existing scale and character of the neighborhood; and

WHEREAS, the Board notes that the tower location was the subject of much discussion and negotiation between the applicant and the adjacent neighbors, and that all parties agree that the current proposal represents the best compromise; and

WHEREAS, as to the proposed parking garage, the applicant states that the site is far away from public transportation, and that significant car ownership amongst prospective occupants is therefore expected; and

WHEREAS, the applicant states that demand for parking will likely exceed the 15 spaces allowed under ZR 13-12; and

WHEREAS, thus, in order to minimize any potential impact the proposed development may have on the on-street parking demand, the applicant proposes an increase in the amount of parking spaces; and

WHEREAS, the applicant also represents that the 60 parking spaces would be available through a City Planning Commission special permit, and that the findings for said permit, which relate to interior layout and ensuring that there is no increase in traffic congestion, will be complied with once the garage is constructed; and

WHEREAS, the Board agrees that the provision of 60 accessory parking spaces will mitigate any potential impact that the development might have on on-street parking in the area; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the

surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

WHEREAS, as noted above, after the rezoning, the applicant initially proposed a 188'-11" high building with an FAR of 5.25; and

WHEREAS, at the request of the Board, the applicant reduced the height and FAR of the proposal to the current version; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05BSA103M dated October 11, 2005; and

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

WHEREAS, the NYC Department of Environmental Protection's Office of Environmental Planning has reviewed the following submissions from the applicant: (1) a March, 2005 Environmental Assessment Statement (EAS), (2) a November, 2003 Phase I Environmental Site Assessment report, and (3) a December, 2004 Phase II Environmental Site Assessment report; and

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

WHEREAS, a Restrictive Declaration was executed on December 21, 2005 and submitted for recordation to the Office of the City Register on December 28, 2005 for the subject property to address hazardous materials concerns; 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 under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City

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Environmental Quality Review and makes each and every one of the required findings under Z.R. § 72-21 and grants a variance to permit, on a lot partially within a C1-7A zoning district and partially within an C1-6A zoning district, the proposed construction of a fifteen and three story mixed-use residential/commercial building, with ground floor retail and an underground accessory parking garage, which does not comply with applicable requirements for floor area ratio, lot coverage, side yards, height and setback, and off-street parking, contrary to Z.R. §§ 23-145, 33-122, 35-31, 23-46, 33-35, 23-633, 33-431, 35-24 and 13-12; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 27, 2005"- sixteen (16) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: 64 total dwelling units (including the five townhouses), a height of 186'-9" (including bulkhead, 173'-2" without); a 10' setback on the West Street side at the Eighth floor; a 15' setback on the West 12th and Bethune Streets sides at the Fourth floor; a total FAR of 5.0; a residential FAR of 4.7; a commercial FAR of 0.3; and lot coverages of 89% and 98% for the corner lot portions; 61% for the through lot portion and 62% for the interior lot portion;

THAT the location of the residential tower shall be as indicated on the BSA-approved plans;

THAT the 60 parking spaces shall be accessory to the on-site uses only;

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, January 10, 2006.

75-05-BZ

CEQR #05-BSA-111R

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

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

in an R3-2 zoning district.

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

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Robert Burdigo.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, January 10, 2006.

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96-05-BZ

CEQR #05-BSA-121M

APPLICANT – Petraro & Jones for Graceful Spa, lessee, 205 LLC, owner.

SUBJECT – Application April 21, 2005 – under Z.R. §73-36 to permit a legalization of physical cultural establishment located on the second floor of a five story mixed-use building. The PCE use will contain 1,465 square feet. The site is located in a C6-3-A Zoning District.

PREMISES AFFECTED – 205 West 14th Street, north side of West 14th Street, 50’ west on intersection with 7th Avenue, Block 764, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Patrick W. Jones.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 15, 2005, acting on Department of Buildings Application No. 104027900, reads, in pertinent part:

“Proposed physical culture establishment is [not] permitted as of right in C6-3A zoning district. This is contrary to section 32-10 ZR.”; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C6-3 zoning district, the legalization of an existing physical culture establishment (“PCE”) located in a five-story 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*, and then to closure and decision on January 10, 2006; and

WHEREAS, Community Board 4, 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, the subject site is located on the north side of West 14th Street, 50 feet west of Seventh Avenue, and has a lot area of 2,400 sq. ft.; and

WHEREAS, the subject PCE will occupy 1,465 sq. ft. of floor area on the second floor; 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: 10 AM to 10 PM daily; 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-121M, dated April 21, 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 C6-3 zoning district, the legalization of an existing physical culture establishment located in a five-story building; *on condition* that all work shall substantially conform to drawings as they apply to the

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objections above noted filed with this application marked "Received December 19, 2005"-(4) sheets and *on further condition*:

THAT the term of this grant shall be for ten years from March 29, 2004, expiring on March 29, 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 10:00AM to 10:00PM daily; 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, January 10, 2006.

147-05-BZ

CEQR #05-BSA-138K

APPLICANT – Sheldon Lobel, P.C., for Kollel Bnei Yeshivas, owner.

SUBJECT - Application June 13, 2005 - under Z.R. §72-21 the proposed enlargement, of a two-story building, housing a synagogue and Rabbi's apartment, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, side and front yards and front setback, is contrary to Z.R. §23-141, §24-11, §24-34, §24-35, and §24-521.

PREMISES AFFECTED – 2402 Avenue "P", southeast corner of East 24th Street, Block 6787, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and

Commissioner Chin.....3

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated October 4, 2005, acting on Department of Buildings Application No. 301931694, reads:

"The proposed legalization of an enlargement of the existing synagogue and Rabbi's accessory apartment in an R3-2 zoning district:

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to Sections 23-141 and 24-11 of the Zoning Resolution.
2. Creates non-compliance with respect to the lot coverage and is contrary to Section 23-141 of the Zoning Resolution.
3. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of Section 24-35 of the Zoning Resolution.
4. Creates non-compliance with respect to the front yard by not meeting the minimum requirements of Section 24-34 of the Zoning Resolution.
5. Creates non-compliance with respect to the front setback by not meeting the minimum requirements of Section 24-521 of the Zoning Resolution.
6. Creates non-compliance with respect to perimeter wall height and maximum height of building and is contrary to Section 24-521 of the Zoning Resolution.
7. Creates non-compliance with respect to parking by not meeting the minimum requirements of Section 25-31 of the Zoning Resolution."; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R3-2 zoning district, the proposed enlargement and partial legalization of a two-story plus cellar synagogue building with a Rabbi's accessory apartment, which requires various bulk waivers related to floor area ratio, lot coverage, side yards, front yards, front setback, perimeter wall height, maximum building height, and required parking, contrary to Z.R. §§ 23-141, 24-11, 24-34, 24-35, 24-521, and 25-31; 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 closure and decision on January 10, 2006; and

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

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

WHEREAS, the site is located on the southeast corner of the intersection of East 24th Street and Avenue P, and has a total

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lot area of 3,700 sq. ft; and

WHEREAS, the site 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, the site is currently improved upon with a 4,073 sq. ft. two-story plus cellar building, which is occupied by the Synagogue (Use Group 4), as well as the Rabbi's accessory apartment; and

WHEREAS, the applicant proposes to enlarge and alter the existing building as follows: cellar level – enlargements at both the front and back portions of the cellar, repositioning of bathrooms, storage rooms, warming kitchen, boiler room, and the addition of open space to the Synagogue above, as well as the addition of an elevator, which will run from the cellar to the second floor; first floor – expansion of approximately 231 sq. ft., for larger worship space, additional bathrooms and a foyer; second floor – expansion of 655 sq. ft., for additional living area in the Rabbi's dwelling; attic level – addition of an attic with 1,146 sq. ft., for additional bedrooms and bathrooms for the Rabbi's dwelling; and

WHEREAS, the proposal includes the legalization of an additional 83 ½ sq. ft. of floor area on the first floor, consisting of a bathroom that was added to the rear of the building; and

WHEREAS, the applicant states that the following are the programmatic needs of the Synagogue, which are driven by an increase in congregation size: (1) more worship and accessory space than is currently provided, to reduce overcrowded conditions; (2) the provision of additional living space for the Rabbi; (3) space for a study where the Rabbi can minister to congregants in privacy; (4) an expanded rabbinical library; (5) an elevator for handicapped accessibility; and (6) a larger living room, for Rabbi-led classes; and

WHEREAS, construction of the new synagogue building as currently proposed will result in the following non-compliances: a floor area ratio ("FAR") of 1.73 (FAR of 1.0 is the maximum permitted); a lot coverage of 79% (60% is the maximum permitted); side yards of 1'-6" and 6" (side yards of 9'-1" and 8'-0" are required); no front yards (front yards of 15'-0" are required); a front setback of 4'-9" (a front setback of 15'-0" is required); a perimeter wall height of 27'-6" (a perimeter wall height of 21'-0" is the maximum permitted); a total height of 39'-4" (a total height of 35'-0" is the maximum permitted); and no parking spaces (23 spaces are required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the existing building, which was constructed as a single-family residence, has insufficient space to accommodate the current size and programmatic needs of the Synagogue; and

WHEREAS, the applicant further states that the requested variances are necessary in order to have enough floor area and height to accommodate the afore-mentioned programmatic needs; and

WHEREAS, specifically, the applicant states that that the

expansion on the first floor will create additionally worship space, remedying the current problem of congregants having no place to sit during religious services; and

WHEREAS, the first floor expansion also will allow the installation of a wheel chair lift, which will provide physically challenged congregants greater access to services; and

WHEREAS, the first floor expansion also allows for separate male and female bathrooms to be located near the worship space; and

WHEREAS, as to the second floor expansion, the applicant states that the improvements to the Rabbi's living area will create more spacious and comfortable living quarters, as well result in an expanded living room and study, which will enable the Rabbi to better minister to and teach congregants; and

WHEREAS, the applicant states that the first floor and cellar of the existing building do not have sufficient or acceptable space for such small-group or individual activities; and

WHEREAS, finally, the applicant states that the creation of the attic will allow the Rabbi and the family more private living quarters, as much of the second floor will be devoted to the congregants; and

WHEREAS, to accommodate these new spaces, the applicant argues that the requested waivers are necessary; and

WHEREAS, additionally, the Board observes that the provision of required parking would be impossible because the existing building and the expansion occupy such a large amount of the subject site; and

WHEREAS, in sum, the Board agrees that, based upon the submitted evidence, the proposed enlargement is necessary in order to meet the programmatic needs of the Synagogue, since the existing building does not possess the square footage necessary to accommodate these needs; and

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

WHEREAS, in concluding that the site is burdened and that hardship exists when considering the programmatic needs of the Synagogue, the Board is cognizant of the fact that under New York state case law, religious institutions are presumed to contribute to the public welfare, and the accommodation of such uses is established State policy; and

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

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

WHEREAS, the applicant states that there are four-story and six-story multiple dwellings diagonally across from the Synagogue; and

WHEREAS, additionally, the applicant notes that the congregants live within walking distance of the Synagogue,

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such that the parking waiver will not have a negative impact on the availability of on-street parking; and

WHEREAS, at hearing, the Board expressed concern about the positioning of the proposed elevator, which is not within the envelope of the building and encroaches into the front yard along East 24th Street; and

WHEREAS, the Board asked the applicant to consider the possibility of repositioning the elevator in a different area so that it would not be visually obtrusive; and

WHEREAS, the applicant replied that the project architect considered this request and determined that the elevator could not be repositioned without compromising much needed space on the first floor of the building; and

WHEREAS, however, the applicant also explained that the façade of the elevator shaft will be integrated into the façade of the Synagogue, so as to maintain a uniform appearance; and

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05BSA138K dated July 18, 2005; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes the

required findings under Z.R. § 72-21, to permit, within an R3-2 zoning district, the proposed enlargement and partial legalization of a two-story plus cellar synagogue building with a Rabbi's accessory apartment, which requires various bulk waivers related to floor area ratio, lot coverage, side yards, front yards, front setback, perimeter wall height, maximum building height, and required parking, contrary to Z.R. §§ 23-141, 24-11, 24-34, 24-35, 24-521, and 25-31; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 30, 2005" –12 sheets; and *on further condition*:

THAT the apartment on the second floor and attic level shall only be occupied by the Rabbi of the congregation and his or her family, and may not be rented out to any other party;

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

THAT LL 58/87 compliance shall be as reviewed and approved by the Department of Buildings;

THAT the parameters of the proposed building shall be as follows: a community facility FAR of 1.73; a community facility floor area of 6,413 sq. ft.; lot coverage of 79%; side yards of 1'-6" and 6"; no front yards; a front setback of 4'-9"; a perimeter wall height of 27'-6"; a total height of 39'-4"; and no parking spaces;

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, January 10, 2006.

156-05-BZ

CEQR #06-BSA-001M

APPLICANT – Charles Rizzo and Associates (CR&A) for Carmine Partners LLC, owner.

SUBJECT – Application July 5, 2005 – under Z.R. §72-21 to allow a proposed six-story residential building with ground floor retail containing four (4) dwelling units in a C2-6 Zoning District; contrary to ZR §23-145, §23-22, §35-24, and §35-31.

PREMISES AFFECTED – 1 Seventh Avenue South, Block 582, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Eli Elbaum.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough
Commissioner, dated June 21, 2005, acting on Department of
Buildings Application No. 104124190, reads:

- “1. Plans submitted indicate that the required setback is not being met as per section 35-24(c)(1) ZR. A minimum of ten feet must be provided; plans only show a five-foot setback.
2. Plans submitted indicate that the maximum residential floor area for this zoning lot is being exceeded. This is contrary to section 35-31 ZR and 23-145 ZR. Only residential and commercial uses are being proposed on this zoning lot.
3. Zoning analysis submitted indicates that development is being pursu[ed] as per the Quality Housing Program, therefore proposed lot coverage is exceeding the maximum allowed (eighty percent). This is contrary to section 23-145 ZR.
4. Residential use cannot be proposed on this zoning lot because the zoning lot area is less than 1,700 SF (minimum required). This is contrary to section 23-22 ZR.”; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a C2-6 zoning district (an R7 equivalent), the proposed construction of a new five-story plus cellar and penthouse mixed-use building with commercial use on the first floor and in the cellar and residential use on the upper floors, contrary to Z.R. §§ 35-24(c)(1), 35-31, 23-145 and 23-22; 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 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject premises is 1,601 sq. ft. pre-existing triangular-shaped lot, with 80'-0" of frontage on Seventh Avenue South, 58'-5 1/8" of frontage on Carmine Street, and a depth of 43'-2"; and

WHEREAS, the property is currently improved upon with an automotive service center; and

WHEREAS, the proposed building will require the following waivers: 100% lot coverage (80% is the maximum

permitted); four unit residential building on an existing zoning lot with a lot area of less than 1,700 s.f. (only a one or two-family residential building is permitted); a total floor area ratio (FAR) of 5.5 (3.44 FAR is the maximum permitted); and a 5'-0" setback above the maximum base height (a 10'-0" setback is the minimum required); and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship in constructing a complying building: (1) the triangular shape of the lot; (2) its shallow depth; (3) its small size; (4) the presence of underground storage tanks and poor soil conditions; (5) the site's proximity to the subway; and (6) the site's proximity to a truck route feeding into the Holland Tunnel; and

WHEREAS, the applicant represents that the lot is a pre-existing small lot that does not have the requisite amount of lot area for a multiple dwelling, even though the subject zoning district allows multiple dwellings; as discussed below, the applicant states that developing the site with a one or two-family dwelling is not feasible; and

WHEREAS, the applicant represents that the triangular shape and small size of the lot lead to a compromised floor plate; if the applicant were to comply with the lot coverage requirement of 80%, each residential unit would have a small floor plate further constrained by three acute corners; and

WHEREAS, the applicant also conducted a Phase II Environmental Assessment on the site which documented the following: the presence of four 550-gallon underground storage tanks and one existing waste oil underground storage tank; gasoline contamination of the soil and the presence of organic vapors; and concentrations of semi-volatile organic compounds in the ground water that exceed state standards; and

WHEREAS, the Phase II report states that the remediation will cost approximately \$275,000; and

WHEREAS, the applicant represents that because of the proximity to the subway, any construction on the site will require considerable shoring and protective measures; and

WHEREAS, the applicant further represents that the site is subject to overwhelming noise from its proximity to the Holland Tunnel; and

WHEREAS, however, the Board does not find this to be an actual unique hardship, given that many sites are similarly affected; and

WHEREAS, a public hearing was held on this application on November 15, 2005, at

WHEREAS, accordingly, the Board finds that certain of the aforementioned unique physical conditions, specifically, the poor soil conditions, the presence of underground storage tanks on the site, the triangular-shape and small size of the site, and the proximity to the subway, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in compliance with the current applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following as-of-right alternatives: (1) a 3.44 FAR retail/residential building; and (2) a 4.3 FAR retail/medical office/residential building; and

WHEREAS, the applicant concludes that neither of the complying scenarios would yield the owner a reasonable return;

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and

WHEREAS, at the request of the Board, the applicant analyzed a 5.0 FAR retail/residential building, and concluded that such a scenario would not achieve a reasonable return; and

WHEREAS, as part of the applicant's feasibility study, the applicant included certain premium construction costs related to the soil conditions, the proximity to the subway, and the inefficiency of the perimeter wall ratio to usable floor area; such costs total \$790,000; and

WHEREAS, the Board requested additional reinforcement of the premium construction costs; and

WHEREAS, the applicant submitted a letter from the project manager that states that environmental remediation will cost approximately \$275,000 and removal of the underground storage tanks will cost approximately \$25,000; and

WHEREAS, the project manager also estimates that the foundation system will cost \$165,000; and

WHEREAS, the project manager further states that because of the high ratio of exterior perimeter wall to usable floor area, the exterior wall systems will cost an additional \$325,000; the project manager notes that the ratio in this case is 75% greater than a typical site configuration; and

WHEREAS, the applicant clarified that premium costs related to the architecture of the proposed building were not included as hardship costs in the financial analysis; and

WHEREAS, the Board also questioned the site valuation, because the site valuation was based upon a multiple dwelling rather than what was allowed under the zoning (one or two family dwelling); and

WHEREAS, the applicant submitted a revised feasibility analysis in which it analyzed 13 one and two-family townhouses located near the subject site and sold in the past 18 months, which concludes that the land value initially attributed to the site is an accurate valuation; and

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

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant has submitted a map of the surrounding buildings that indicates that there is a six-story building across from the site on Leroy Street, an eight-story building one block north of the site on Bedford Street, and a six-story building on Seventh Avenue South; and

WHEREAS, there are also two six-story buildings one block east of the site; and

WHEREAS, the applicant notes that the height of the building will be comparable to the heights of other buildings in the neighborhood, including those cited above; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood

nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

WHEREAS, the applicant contends that a FAR waiver is needed to offset the additional hardship costs related to remediation and foundation construction, as well as address inefficiencies in the floor plates related to the lot's shape and size; and

WHEREAS, however, the Board asked the applicant to ensure that the requested FAR waiver (a total FAR of 5.5) was in fact the minimum variance necessary; and

WHEREAS, with an FAR of 5.5, a six-story building with sufficient floor plates for four units results; and

WHEREAS, at the request of the Board, the applicant analyzed a building with a total FAR of 5.0, with one less floor; the applicant concluded that such a scenario would not realize a reasonable return; and

WHEREAS, the Board concludes that the requested FAR and the resulting additional floor are necessary for revenue generation sufficient to overcome the hardship costs; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA001M dated July 5, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and 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 under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit, within a C2-6 zoning district (an R7 equivalent), the proposed construction of a new five-story plus cellar and penthouse mixed-use building with commercial use on the first floor and in the cellar and residential use on the upper floors,

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contrary to Z.R. §§ 35-24(c)(1), 35-31, 23-145 and 23-22; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 9, 2005"- six (6) sheets; and on further condition:

THAT the following shall be the parameters of the proposed building: a maximum residential FAR of 4.88; a maximum total FAR of 5.5; maximum lot coverage of 100%; four units; and a minimum 5'-0" setback above the maximum base height;

THAT all balconies and/or porches shall be as reviewed and approved by the Department of Buildings; the Board is not approving any balconies and/or porches;

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, January 10, 2006.

185-05-BZ

CEQR #06-BSA-011Q

APPLICANT – Manatt, Phelps & Phillips, LLP (Carol E. Rosenthal, Esq.) for 62-02 Roosevelt Avenue Corporation, owner.

SUBJECT – Application August 5, 2005 – under Z.R. §72-21 to allow a dance floor (Use Group 12) to be constructed in an existing eating and drinking establishment located in an R6/C1-2 zoning district, which is contrary to Z.R. §32-15.

PREMISES AFFECTED – 62-02 Roosevelt Avenue, South side of Roosevelt Ave. 101ft from the corner formed by the intersection of the LIRR tracks with Roosevelt Avenue and 192'59" from the corner formed by the intersection of Roosevelt Avenue and 63rd Street, Block 1294, Lot 58, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Chanin French.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated July 15, 2005, acting on DOB Application No. 402105253 reads:

“Proposed eating and drinking establishment with

entertainment and a capacity of more than 200 persons (UG 12) in C1-2 district and contrary to Section 32-00 Z.R.”; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an R6 zoning district with a C1-2 commercial overlay, conversion of the first floor of an existing two-story building from an eating and drinking establishment (UG 6) to an eating and drinking establishment with entertainment and dancing (UG 12), contrary to Z.R. § 32-00; and

WHEREAS, a public hearing was held on this application on November 1, 2005 after due notice by publication in *The City Record*, with a continued hearing on December 6, 2005, and then to decision on January 10, 2006; 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 2, Queens, initially approved this application with no conditions; and

WHEREAS, subsequent to learning about certain community concerns related to the operation of the premises, the Community Board issued a new report in support of this application so long as the owner complies with certain conditions related to the operation of the premises; and

WHEREAS, the applicant has agreed to comply with the Community Board’s recommended conditions, certain of which are reflected below; and

WHEREAS, the subject zoning lot is located on the south side of Roosevelt Avenue between the Long Island Railroad and 63rd Street, and has a lot area of 7,345 sq. ft.; and

WHEREAS, the existing two-story building has 12,170 sq. ft. of floor area, and contains a restaurant use on the first floor and vacant offices on the second floor; and

WHEREAS, the total floor area of the first floor is 5,960 sq. ft. and the total floor area of the second floor is 6,210 sq. ft.; and

WHEREAS, the applicant represents that the building was used as a theatre until 1986, and then remained vacant until 2004; and

WHEREAS, in 2004, the owner opened the restaurant on the ground floor; the applicant represents that it has unsuccessfully attempted to rent the office space on the second floor; and

WHEREAS, the applicant represents that the proposed stage area and dance floor will occupy 446 sq. ft. of the first floor; the remaining floor area will be used for restaurant use and for a waiting area; and

WHEREAS, the applicant represents that the site has approximately 31 ft. of frontage on Roosevelt Avenue, and has no other street frontage; and

WHEREAS, the applicant further represents that the site is irregularly shaped, with the majority of the site located adjacent to the Long Island Railroad, and a small “flagpole” portion of the site extending from the rear to Roosevelt Avenue; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in strict

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conformance with underlying zoning regulations: (1) the lot is irregularly-shaped; (2) it has a minimal amount of street frontage in relation to the size of the lot; and (3) it is close to the Long Island Railroad and a subway line; and

WHEREAS, the applicant represents that because the site only has 31 ft. of street frontage, it is difficult to attract customers to fill the large restaurant, due to limited street visibility; and

WHEREAS, the applicant represents that the street frontage of the lot represents 0.5% of the total area of the ground floor of the building; the other retail buildings in the area have street frontages of between 1.25% and 2.22% of the total area of the ground floor of the building; and

WHEREAS, in addition, the applicant represents that noise emanating from the surrounding train lines discourages customers from coming to the restaurant, and discourages other conforming residential and commercial uses; and

WHEREAS, the applicant further represents that the lot would not be conducive to conforming residential uses because the minimal street frontage relative to the size of the site would not provide adequate access to light and air in the front of the building; and

WHEREAS, the applicant states that any residences would have to vent into the undersized rear yard or onto a new interior court, which would impact the ability to maximize the allowable floor area; and

WHEREAS, the Board finds that, when considered in the aggregate, the factors stated above create unnecessary hardship and practical difficulties in strictly conforming with the applicable use provisions of the Zoning Resolution; and

WHEREAS, the applicant submitted a feasibility study that analyzed the following scenarios: an as-of-right retail/office use; an as-of-right restaurant/office use; and the proposed use; and

WHEREAS, the feasibility analysis concludes that only the proposed use will garner a reasonable rate of return; and

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

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and that the proposed use is compatible with adjacent and nearby uses; and

WHEREAS, the applicant represents that Roosevelt Avenue near the site consists almost entirely of commercial uses in low-rise buildings, including retail stores, beauty salons, restaurants, a fish market and an off-track betting parlor; and

WHEREAS, the applicant also submitted a land use map that reflects that the site is bordered by two manufacturing buildings, two commercial buildings, and the Long Island Railroad; and

WHEREAS, the applicant states that there are no residences adjacent to the site or other uses incompatible with late-night activities such as dancing; and

WHEREAS, the Board asked the applicant to review the

requirements for a special permit under Z.R. § 73-244, which would allow similar relief as that being sought in this application, if the site was located in a zoning district where the special permit was available; and

WHEREAS, in response, the applicant provided the Board with an analysis of how it meets the findings under the special permit; and

WHEREAS, the applicant states that it is providing the minimum patron waiting area required by the special permit; and

WHEREAS, in addition, the applicant has submitted a traffic study that shows that the hours of greatest activity at the restaurant do not coincide with peak traffic hours, and that there is sufficient on-street parking in the area to accommodate the proposed use, as well as access to subways and the Long Island Railroad; and

WHEREAS, finally, the applicant has conducted a noise analysis that shows that there are no residential uses so near the site that they would be impacted by the proposed use; and

WHEREAS, the Board observes that there are no residential uses adjacent to the site and that the site is bordered by commercial uses and a railway cut; and

WHEREAS, in addition, the Board observes that the applicant has agreed to certain conditions on the operation of the establishment that are designed to ensure that it will have minimal impacts, certain of which are conditions of this grant; and

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA011Q, dated August 5, 2005; and

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

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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 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, in an R6 zoning district with a C1-2 commercial overlay, conversion of the first floor of an existing two-story building from an eating and drinking establishment (UG 6) to a 5,960 sq. ft. eating and drinking establishment with entertainment and dancing (UG 12), for a term of two years, contrary to Z.R. § 32-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 12, 2005"--one(1) sheet; and *on further condition*:

THAT this grant shall be for a term of two years, expiring on January 10, 2008;

THAT the hours of operation shall be: 8 AM to 2 AM Monday through Wednesday and 8 AM to 4 AM Thursday through Sunday;

THAT the maximum total occupancy of the first floor shall be 269 persons;

THAT there shall be a maximum of 50 persons on the dance floor, as indicated on the BSA-approved plans;

THAT the first floor shall have a maximum floor area of 5,960 sq. ft., including a waiting area of 1,076 sq. ft. (with a rate of 4 sq. ft. per occupant) and a dance floor of 446 sq. ft.;

THAT from 8 PM until closing, Thursday through Sunday, a minimum of one security guard shall provide security services and ensure that patrons do not congregate on the sidewalk near the entrance;

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, January 10, 2006.

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.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

269-04-BZ

APPLICANT – Law Office of Howard Goldman, LLC, for 37 Bridge Street Realty, Corp., owner.

SUBJECT – Application August 2, 2004 – under Z.R. §72-21 to permit the conversion of a partially vacant, seven-story industrial building located in a M1-2 and M3-1 zoning district into a 60 unit loft style residential dwelling in the Vinegar Hill/DUMBO section of Brooklyn.

PREMISES AFFECTED – 37 Bridge Street, between Water and Plymouth Streets, Block 32, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #1BK.

APPEARANCES –

For Applicant: Robert M. Scarano and Howard Goldman.

ACTION OF THE BOARD – Laid over to February 14, 2005, at 1:30 P.M., for continued hearing.

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338-04-BZ

APPLICANT – Martyn & Don Weston, for Hi-Tech Equipment Rental Inc., owner.

SUBJECT – Application October 12, 2004 – under Z.R. §72-21 to permit the proposed construction of a one story and cellar extension to an as-of-right six story hotel, and to permit on grade accessory parking and below grade showroom/retail use, in an R5 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED – 806/14 Coney Island Avenue, west side, 300.75' north of Ditmas Avenue, Block 5393, Tentative Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Don Weston and Jack Freeman.

For Opposition: Lisa L. Gokhulsingh.

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

361-04-BZ

APPLICANT – Eric Palatnik, P.C. for Parsons Estates, LLC, owners.

SUBJECT – Application November 17, 2004 – under Z.R. §72-21 – to permit a proposed three-story residential building in an R4 district which does not comply with the zoning requirements for floor area, wall height, sky exposure plane, open space, lot coverage and the number of dwelling units; contrary to Z.R. §23-141c, 23-631 and 23-22.

PREMISES AFFECTED – 75-48 Parsons Boulevard, 168.40' north of 75th road, at the intersection of 76th Avenue; Block 6810, Lot 44, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik and Robert Pauls.

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

Negative:.....0

ACTION OF THE BOARD – Laid over to February 14, 2006, at 1:30 P.M., for decision, hearing closed.

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.

PREMISES AFFECTED – 57-69 69th Street, north side of 69th Street 24' west of 60th 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 7, 2006, at 1:30 P.M., for continued hearing.

386-04-BZ

APPLICANT – Rothkrug, Rothkrug, Weinberg & Spector, for PSCH, Inc., owner.

SUBJECT – Application November 9, 2004 – under Z.R. §72-21 to permit the proposed enlargement and development of an existing community facility, located in M1-1 zoning district, which does not comply with the zoning requirements for accessory off-street loading berth, waterfront yards, total height and parking, is contrary to Z.R. §44-52, §62-331, §62-34, §62-441 and §44-21.

PREMISES AFFECTED – 22-44 119th Street, corner of 23rd Avenue, Block 4194, Lot 20, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik and Hiram Rothkrug.

For Opposition: Gary Hisiger.

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

Negative:.....0

ACTION OF THE BOARD – Laid over to February 14, 2006, at 1:30 P.M., for decision, hearing closed.

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 February 7, 2006, at 1:30 P.M., for continued hearing.

398-04-BZ

APPLICANT – Eric Palatnik, P.C., for Babavof Avi, owner.

SUBJECT – Application December 23, 2004 – under Special Permit Z.R. §73-622 – proposed legalization of an enlargement of a single family residence which causes non-compliance to Z.R. §23-14 for open space and floor area. The premise is located in R2 zoning district.

PREMISES AFFECTED – 2103 Avenue M, northeast corner of East 21st Street, Block 7639, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

MINUTES

5-05-BZ

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

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

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

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Irving Minkin.

For Opposition: Iabros Halikiopoulos and Mary Halikiopoulos.

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

74-05-BZ

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

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

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

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Robert Burdigo.

ACTION OF THE BOARD – Laid over to April 11, 2006, at 1:30 P.M., for continued hearing.

81-05-BZ

APPLICANT – Bryan Cave LLP (Margery Perlmutter, Esq.) for the Lyon Group, LLC, owner.

SUBJECT – Application April 5, 2005 – under Z.R.§72-21 to construct a 7-story plus mezzanine residential building containing 39 dwelling units and 10 accessory parking spaces in an R6 district, contrary to ZR §§23-145, 23-632, 23-633, 25-23.

PREMISES AFFECTED – 1061/71 52nd Street, north side, 229' east of Fort Hamilton Parkway, Block 5653, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Margery Perlmutter, Simon Fouladian and Jack Friedman.

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

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 27th Street, Block 7644, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

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 cultural establishment located on the entire second floor portion of the third floor and the entire fourth floor with a total of 34,125 sq. ft. of floor area. The site is located in a C2-8 zoning district.

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

COMMUNITY BOARD #8M

APPEARANCES – None.

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

Pasquale Pacifico, Executive Director.

Adjourned: 5:45 P.M.