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# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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Volume 92, No. 38

October 11, 2007

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### DIRECTORY

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112-07-BZ	1089-1093 East 21 <sup>st</sup> Street, Brooklyn

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# DOCKETS

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New Case Filed Up to October 2, 2007  
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**221-07-BZ**

165 Lenox Avenue, Single lot located on the west side of Lenox Avenue, mid-block between West 118th and West 119th Streets., Block 1903, Lot(s) 32, Borough of **Manhattan, Community Board: 10**. Under 72-21-To permit a change in use to allow a music rehearsal studio within the existing building.  
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**222-07-BZ**

110 West 26th Street, West 26th Street between Sixth Avenue and Seventh Avenue., Block 801, Lot(s) 49, Borough of **Manhattan, Community Board: 4**. Under 72-21-To legalize the residential use of the 2nd and 3rd floors of the subject premises.

**223-07-BZ**

12 West 57th Street, South side of West 57th Street between Fifth and Sixth Avenues., Block 1272, Lot(s) 47, Borough of **Manhattan, Community Board: 5**. (SPECIAL PERMIT) 73-36-To legalize a Physical Culture Establishment comprising 5,463 square feet in an existing building.  
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**224-07-BZ**

1940 54th Street, Southern side of 54th Street between 19th Avenue and 20th Avenue., Block 5495, Lot(s) 48, Borough of **Brooklyn, Community Board: 12**. Under 72-21-To permit the proposed residential development at the premises.  
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**225-07-BZ**

1942 54th Street, Southern side of 54th Street between 19th Avenue and 20th Avenue., Block 5495, Lot(s) 49, Borough of **Brooklyn, Community Board: 12**. Under 72-21-To permit the proposed residential development at premises.  
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**226-07-BZ**

1946 54th Street, Southern side of 54th Street between 19th Avenue and 20th Avenue., Block 5495, Lot(s) 50, Borough of **Brooklyn, Community Board: 12**. Under 72-21-To permit the proposed residential development at the premises.  
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**227-07-BZ**

1595 Canarsie Road, Subject property fronts the east side of Canarsie Road between Kaufman Place to the north and Avenue N to the south., Block 8277, Lot(s) 9, Borough of **Brooklyn, Community Board: 18**. (SPECIAL PERMIT) 73-30-For a proposes 52-foot non-accessory radio tower and related equipment at grade.  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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## OCTOBER 30, 2007, 10:00 A.M.

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, October 30, 2007, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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### SPECIAL ORDER CALENDAR

#### 426-83-BZ

APPLICANT – Glen V. Cutrona, AIA, for Giuseppe Emmanuele, owner; S & E Landholding, Incorporated, lessee.

SUBJECT – Application November 3, 2006 – Extension of Term/Amendment/Waiver-Request extension of term of an existing retail stores on the first floor and offices on the second floor (UG6 in a R3-1 zoning district), approved pursuant to §72-21. The amendment seeks to legalize a reduction in parking from the 27 to 20 vehicles and approve the change in parking layout. The application also seeks to amend the signage and extend the term for an additional twenty (20) years from its expiration on November 27, 2004. PREMISES AFFECTED – 1880 Hylan Boulevard, Hylan Boulevard and Slater Boulevard, Block 3657, Lot 7, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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## OCTOBER 30, 2007, 1:30 P.M.

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, October 30, 2007, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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### ZONING CALENDAR

#### 48-06-BZ

APPLICANT – Jack A. Adesso, PLLC, for 420 Morris Park Avenue, LLC, owner.

SUBJECT – Application March 17, 2006 – Zoning variance under § 72-21 to allow an eight (8) story residential building containing seventy (70) dwelling units and seventeen (17) accessory parking spaces in an M1-1 district. Proposal is contrary to use regulations (§ 42-00).

PREMISES AFFECTED – 420 Morris Park Avenue, southwest corner of East Tremont Avenue and Morris Park Avenue, Block 3909, Lot 61, Borough of Bronx.

**COMMUNITY BOARD #6BX**

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#### 158-07-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for 184-20 Union Turnpike Realty, LLC, owner.

SUBJECT – Application June 11, 2007 – Variance (§ 72-21) to allow a one-story commercial retail building (UG 6), contrary to use regulations (§ 22-10). R1-2 district.

PREMISES AFFECTED – 184-20 Union Turnpike, 110' west of southwest corner of the intersection of Union Turnpike and Chevy Chase Street, Block 7248, Lot 39, Borough of Queens.

**COMMUNITY BOARD #8Q**

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#### 167-07-BZ

APPLICANT – Harold Weinberg, P.E., for Alex Sirota, owner.

SUBJECT – Application June 18, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space, lot coverage, floor area (23-141) and less the required rear yard (23-47) in an R3-1 zoning district. This application also seeks to convert from a two family residence to a one family residence.

PREMISES AFFECTED – 220 Amherst Street, west side 140' south of Oriental Boulevard between Oriental Boulevard and Esplande, Block 8738, Lot 62, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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#### 202-07-BZ

APPLICANT – Cozen O'Connor Attorneys, for Frank J. Martino Revocable Living Trust, owner; Mattan Basseter, lessee.

SUBJECT – Application August 14, 2007 – Special Permit under §73-19 to allow a religious pre-school (UG3). The proposal is contrary to section 42-00. M1-1 district.

PREMISES AFFECTED – 2160-2170 McDonald Avenue, west side of McDonald Avenue, 40' north of Avenue T, Block 7087, Lot 34, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

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#### 213-07-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Esther Eisenreich, owner.

SUBJECT – Application September 18, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary open space and floor area (23-141); side yard (23-48) and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1217 East 26<sup>th</sup> Street, East 26<sup>th</sup> Street between Avenue L and Avenue M, Block 7644, Lot 38, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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# CALENDAR

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**215-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for YMCA of Greater New York, owner.

SUBJECT – Application September 20, 2007 – Variance (§72-21) to permit an enlargement of the existing community facility building. The proposal requests waivers of lot coverage (24-11) and sky exposure plane (24-521). R5B district.

PREMISES AFFECTED – 69-02 64<sup>th</sup> Street, southwest corner of the intersection of Catalpa Avenue and 64<sup>th</sup> Street, Block 3631, Lot 6, Borough of Queens.

**COMMUNITY BOARD #5Q**  
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*Jeff Mulligan, Executive Director*

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# MINUTES

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**REGULAR MEETING  
TUESDAY MORNING, OCTOBER 2, 2007  
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Collins,  
Commissioner Ottley-Brown and Commissioner Hinkson.

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**SPECIAL ORDER CALENDAR**

**671-56-BZ**

APPLICANT – Walter T. Gorman, P.E., for 24 Pack LLC, owner; Euclide Enterprises, Inc., lessee.

SUBJECT – Application March 21, 2007 – Amendment to a previously granted Variance (§72-21) to convert the existing service bays to an accessory convenience store, an area previously approved for a new bay to a mechanical room and (§11-412) to legalize a UG6 eating and drinking establishment (Texas Chicken); Extension of Time to complete construction and to obtain a Certificate of Occupancy and a Waiver of the rules in a C1-2/R-5 zoning district.

PREMISES AFFECTED – 1249-1265 Sutter Avenue, blockfront from Euclid Avenue to Doscher Street, Block 4249, Lots 55 & 59, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

APPEARANCES –

For Applicant: John Ronan.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson..4

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, an extension of time to obtain a certificate of occupancy, and an amendment to the previously granted variance for a gasoline service station with accessory uses; and

WHEREAS, a public hearing was held on this application on July 17, 2007, after due notice by publication in *The City Record*, with a continued hearing on September 11, 2007, and then to decision on October 2, 2007; and

WHEREAS, Community Board 5, Brooklyn, recommends approval of this application; and

WHEREAS, the premises is located on the north side of Sutter Avenue on a through lot with frontage on Doscher Street and Euclid Street; and

WHEREAS, the site is located within a C1-2 (R5) zoning district and is occupied by a gasoline service station, lubritorium, auto laundry, and a fast food establishment; and

WHEREAS, the Board has exercised jurisdiction over the subject site since September 24, 1957 when, under the subject calendar number, the Board granted an application for the

alteration of an existing gasoline service station with a lubritorium, minor auto repairs, auto laundry, office, store, parking, and storage of motor vehicles; and

WHEREAS, subsequently, the grant was amended and extended at various times; and

WHEREAS, most recently, on May 25, 2004, the Board reopened and amended the resolution to allow for certain site modifications, including the re-establishment of the gasoline service station (which had been eliminated in a prior amendment), an enlargement of the service building, the installation of two concrete islands, and the conversion of an existing bay to an accessory convenience store; the term was extended for a period of ten years to expire on September 24, 2012; and

WHEREAS, by letter dated September 22, 2004, the Board permitted several interior layout modifications; and

WHEREAS, the noted changes were not made and the applicant now seeks to modify the plans and to legalize certain existing conditions; and

WHEREAS, the period to complete construction and obtain a certificate of occupancy expired on May 25, 2005; and

WHEREAS, the applicant initially proposed, under this application, to convert the existing service bays and a portion of the area previously approved for a new bay into an accessory convenience store, to convert the remaining portion of the area which had been approved for a new bay to a mechanical room for the carwash equipment, and to legalize the Use Group 6 fast food establishment at the site; and

WHEREAS, the applicant revised the plans to eliminate the convenience store, to convert the proposed new bay into a mechanical room and office, but to maintain the fast food establishment; and

WHEREAS, the applicant also proposes to add a canopy at the entrance to the car wash and a drying area at the exit of the car wash; and

WHEREAS, the Board notes that the proposed enlargement to the service building is approximately 380 sq. ft. and is within the parameters set forth in ZR § 11-412; and

WHEREAS, pursuant to ZR § 11-412, the Board may grant a request for alterations to the site; and

WHEREAS, as noted, the applicant proposes to legalize a change in use of a portion of the site from a convenience store, as approved, to the existing fast food establishment; and

WHEREAS, the applicant represents that this use does not result in any new non-conformance or non-compliance; and

WHEREAS, the Board notes that the fast food establishment is a conforming use; and

WHEREAS, pursuant to ZR § 11-413, the Board may grant a change in use at the site to a conforming use; and

WHEREAS, at hearing, the Board directed the applicant to make the following changes to improve the circulation and safety at the site: (1) eliminate one curb cut on Sutter Avenue (closest to Doscher Street), (2) relocate the accessory parking to the west property line, (3) eliminate the curb cut on Euclid Avenue, (4) demarcate a pedestrian pathway between the accessory parking and the fast food establishment, and (5) install

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bollards in front of the entrance to the fast food establishment so that cars cannot cross the pedestrian pathway; and

WHEREAS, additionally, the Board directed the applicant to remove any non-complying signage; and

WHEREAS, the applicant has also requested to legalize the change in hours of operation for the car wash from 8:00 a.m. to 6:00 p.m., daily to 8:00 to 7:00 p.m., daily; and

WHEREAS, the Board agrees that this change is appropriate; and

WHEREAS, based upon its review of the record, the Board finds the proposed amendments are appropriate and that the evidence in the record supports the findings required to be made under ZR §§ 11-412 and 11-413, with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waivers* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on December 12, 1939, so that as amended this portion of the resolution shall read: “to permit an extension of time to obtain a certificate of occupancy, the legalization of a fast food establishment (Use Group 6) on a portion of the site, and other noted site modifications, including the enlargement of the service building, *on condition* that all work and the site layout shall substantially conform to drawings as filed with this application, marked “September 19, 2007”-(5) sheets; and *on further condition*:

THAT construction be completed and a new certificate of occupancy be obtained within 12 months of the date of this grant, on October 2, 2008;

THAT the hours of operation of the car wash shall be limited to 8:00 to 7:00 p.m., daily;

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

THAT all signage shall comply with C1 zoning district regulations;

THAT DOB shall review and approve all signage;

THAT DOB shall review and approve the layout of the onsite parking;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application Nos. 301664429 & 301658882)

Adopted by the Board of Standards and Appeals, October 2, 2007.

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## 919-57-BZ

APPLICANT – Cullen and Dykman LLP by Gary Goldman, owner; Stanley Halpern, lessee.

SUBJECT – Application August 20, 2007 – Extension of Term, ZR11-411 of a previously granted variance for the continued operation of a UG6 take out restaurant in an R3-2 zoning district which expired on March 25, 2003.

PREMISES AFFECTED – 4912 Avenue K, south side of Avenue K between East 49<sup>th</sup> Street and Utica Avenue, Block 7829, Lot 44, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Gary Goldman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson..4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 10 A.M., for decision, hearing closed.

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## 382-80-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Full Gospel New York Church, owners.

SUBJECT – Application June 29, 2007 – Extension of Term of a previously granted variance, which expired on July 1, 2005, to allow the operation of a theater (Playhouse 91) on the mezzanine and second floors located in an R8b zoning district.

PREMISES AFFECTED – 316 East 91<sup>st</sup> Street, south side of East 91<sup>st</sup> Street, 250’ east side of Second Avenue, Block 1553, Lot 41, Borough of Manhattan.

### COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Fredrick A. Becker and Kenneth Shin.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson..4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 10 A.M., for decision, hearing closed.

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## 214-96-BZ

APPLICANT – Rampulla Associates Architects, for Colonial Funeral Home, owner.

SUBJECT – Application July 2, 2007 – Extension of Term of a previously granted Variance (§72-21) which expires on April 7, 2008, to permit in an R3-1 zoning district, a UG7 (Colonial Funeral Home) and the existing accessory parking on the adjacent lot (Lot 30) which houses a conforming UG1 single family home.

PREMISES AFFECTED – 2819 Hylan Boulevard, North side Hylan Boulevard east corner of Hylan Boulevard and Tysens Lane. Block 4256, Lot 34, Borough of Staten Island.

### COMMUNITY BOARD #2SI

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## APPEARANCES –

For Applicant: Phil Rampulla.

## THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 23, 2007, at 10 A.M., for decision, hearing closed.

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## 219-06-A thru 225-06-A

APPLICANT – Rothkrug, Rothkrug and Spector, for J. Berardi & C. Saffren, owners.

SUBJECT – Application August 30, 2006 – Application to permit the construction of seven two story one family dwellings within the bed of a mapped street (128th Drive) contrary to Section 35 of the General City Law and not fronting on a legally mapped street contrary to Article 3, Section 36 of the General City Law. Premises is located within the R-2 Zoning District.

PREMISES AFFECTED – 241-10/16/22/28/15/21/25 128<sup>th</sup> Drive, Block 12886, Lots 1003, 1005, 1007, 1009, 1004, 1006, 1008, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to November 30, 2007, at 10 A.M., for continued hearing.

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## 2-07-A thru 5-07-A

APPLICANT – Sheldon Lobel, P.C., for Ron Karo, owner.

SUBJECT – Application January 8, 2007 – To allow construction of four-3story 2 family located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED– 3212, 3214, 3216, 3218, Tiemann Avenue, northeast corner of Tiemann Avenue and unnamed Street, Block 4752, Lots 128, 129, 132, 133, Borough of Bronx.

## COMMUNITY BOARD #12BX

### APPEARANCES –

For Applicant: Ron Mandel.

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 10 A.M., for continued hearing.

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## 39-07-BZ thru 40-07-A

APPLICANT – Sheldon Lobel, P.C., for Blue Granite, owner.

SUBJECT – Application February 2, 2007 – Proposed construction of a 3 story, 3 family located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED –3248, 3250, Givan Avenue, unnamed street between Wickham and Givan Avenue,, Block

4755, Lots 65 & 66, Borough of Bronx.

## COMMUNITY BOARD #12BX

### APPEARANCES –

For Applicant: Ron Mandel.

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 10 A.M., for continued hearing.

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## 73-07-A

APPLICANT– Fire Department of The City of New York

OWNER – L. W. Equity Associates Incorporated

LESSEE – Fabco Shoe Store

SUBJECT – Application March 30, 2007 – Application seeking to modify Certificate of Occupancy No. 300217414, to permit the issuance of an order by the Fire Department to require additional fire protection for the occupied cellar of the commercial structure in the form of an automatic sprinkler system under the authority of Section 27-4265 of the Administrative Code.

PREMISES AFFECTED – 2169-2171 86<sup>th</sup> Street, North side of 86th Street, 100' west from the corner of Bay Parkway, Block 6347, Lot 49, Borough of Brooklyn.

## COMMUNITY BOARD #11BK

### APPEARANCES –

For Applicant: Anthony Scaduto, Fire Department.

For Opposition: Otis Allen and David Wienman.

## THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson..4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 10 A.M., for decision, hearing closed.

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## 156-07-A

APPLICANT – Jorge F. Canepa, for Victor Battaglia, owner.

SUBJECT – Application June 11, 2007 – Proposed construction a swimming pool and equipment room, located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED – 60 Chipperfield Court, 433.95' south of the corner between Chipperfield Court and Ocean Terrace, Block 687, Lot 337, Borough of Staten Island.

## COMMUNITY BOARD #2SI

### APPEARANCES –

For Applicant: Jorge F. Canepa.

## THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson..4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 16, 2007, at 10 A.M., for decision, hearing closed.

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*Jeffrey Mulligan, Executive Director*

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# MINUTES

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Adjourned: 12:15 P.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, OCTOBER 2, 2007  
1:30 P.M.**

Present: Chair Srinivasan, Vice-Chair Collins,  
Commissioner Ottley-Brown and Commissioner Hinkson.

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**ZONING CALENDAR**

**23-06-BZ**

APPLICANT– Sheldon Lobel, P.C., for Kehilat Sephardim, owner.

SUBJECT – Application February 9, 2006 – Variance (§72-21) to legalize, in an R4 zoning district, the expansion of an existing three-story building currently housing a synagogue and accessory Rabbi's apartment. The proposal is requesting waivers for side yards (§24-35) and front yards (§24-34).

PREMISES AFFECTED – 150-62 78<sup>th</sup> Road, southwest corner of 153<sup>rd</sup> Street and 78<sup>th</sup> Road, Block 6711, Lot 84, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES –

For Applicant: Jordan Most.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Queens Borough Commissioner, dated November 1, 2006, acting on Department of Buildings Application No. 402265320, reads in pertinent part:

“Proposed side yards of 0’-0” and 8’-0” for a corner lot, occupied as community facility is contrary to ZR 24-35.

The proposed front yards for a corner lot is contrary to ZR 23-34”; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21, to permit, on a site within an R4 zoning district, the legalization of an enlargement to a three-story Use Group 4 synagogue, which does not comply with front yards and side yards, contrary to ZR §§ 24-35 and 23-34; and

WHEREAS, a public hearing was held on this application on January 30, 2007, after due notice by publication in *The City Record*, with continued hearings on April 17, 2007, August 21, 2007 and September 18, 2007, and then to decision on October 2, 2007; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-

Chair Collins, Commissioner Hinkson, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 8, Queens, recommends approval of the application with the condition that (1) an independent engineer certify that the building meets all Building Code and fire safety standards and that the applicant install fire alarm and smoke detection devices throughout the building, (2) the applicant obtain required supervision of programs for children, (3) the applicant maintain the rear driveway, and (4) the applicant meet with neighbors to resolve concerns; and

WHEREAS, this application is being brought on behalf of Kehilat Saphardim of Ahavat Achim, a non-profit religious entity (the “Synagogue”); and

WHEREAS, the subject premises is located on the southwest corner of 153<sup>rd</sup> Street and 78<sup>th</sup> Road, and is occupied by a three-story synagogue, which has been enlarged contrary to applicable zoning regulations; and

WHEREAS, the site has a total lot area of 2,500 sq. ft. and is located within an R4 zoning district; and

WHEREAS, the applicant represents that the former building did not meet the Synagogue’s programmatic needs and that the Synagogue enlarged the building at the front and rear of the former building; and

WHEREAS, the existing building provides for a three-story synagogue with the following parameters: a street wall and total height of 35’-0”, 4,217 sq. ft. of floor area, and an FAR of 1.68, with Use Group 4 synagogue use in the entire building; and

WHEREAS, additionally, the building, which is attached to a residential building at its western wall provides for a single side yard with a width of 14.06 feet at the rear of the building (two side yards with a minimum width of 8’-0” are required for a community facility in the zoning district), and front yards of 15’-0” (on 78<sup>th</sup> Road) and 5’-4” (on 153<sup>rd</sup> Street) (front yards with depths of 10’-0” and 15’-0” are the minimum required); and

WHEREAS, the proposed building has the following program: (1) a multi-purpose study hall, a lobby, and an accessory office on the first floor; (2) the primary worship space on the second floor; and (3) the accessory rabbi’s apartment on the third floor; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue: (1) to provide sufficient space to accommodate the congregation of more than 100 members; and (2) to provide space for services and programs other than worship services; and

WHEREAS, the applicant states that the prior space was insufficient to accommodate the existing congregation and that, even with the enlargement, high holiday services cannot be held at the site; and

WHEREAS, the applicant represents that meeting space is required for services and programming accessory to the Synagogue and for groups to meet outside of the worship space; and

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WHEREAS, specifically, the applicant represents that the Synagogue provides social service programming including (1) acculturation for the largely immigrant congregation, (2) a food pantry, (3) City and State agencies' social service programs, (4) religious instruction, and (5) youth programs; and

WHEREAS, additionally, the applicant represents that the prior building, which was a single-family home dating back to 1951, before its conversion to a synagogue in 1997, was obsolete in that it lacked adequate space and facilities for modern community facility use; and

WHEREAS, the applicant states that the existing floor area, which complies with zoning district regulations, cannot be accommodated within the as-of-right yard parameters and allow for efficient floor plates that would accommodate the Synagogue's programmatic needs, thus necessitating the requested waivers of these provisions; and

WHEREAS, the applicant argues that the existing non-complying yard parameters enabled the Synagogue to develop the site with a building with viable floor plates; and

WHEREAS, the applicant states that in addition to facilitating sufficient floor plates, the waivers also allow the Synagogue's height to fit into the context of the neighborhood; and

WHEREAS, the Board notes that, if the second required side yard of 8'-0" and a second required front yard (on 153<sup>rd</sup> Street) of 10'-0" were provided, the building would only have a width 4'-0" and would be too narrow to accommodate any viable building; and

WHEREAS, the Board acknowledges that the Synagogue, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Synagogue create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Synagogue is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant notes that the synagogue use is

permitted in the subject zoning district and that the Synagogue has existed at the site for approximately ten years; and

WHEREAS, additionally, the applicant represents that the use of the building reaches a maximum capacity of approximately 70 visitors at one time, on a weekly basis; and

WHEREAS, the applicant represents that the immediate area is characterized by two- and three-story attached and detached homes; and

WHEREAS, at hearing, the Board expressed concern about a number of site conditions, which it did not find compatible with the neighborhood character; and

WHEREAS, specifically the Board directed the applicant to remove or modify the following conditions: (1) the garbage stored in the yard, (2) the shed at the east side of the site, (3) the parking space at the front of the building on 78<sup>th</sup> Road, (4) the masonry wall on the east property line, (5) the brickfacing on the front portion of the building, which is a different color than the rest of the building and others in the vicinity, (6) the cinderblock portion of the wall along the west property line, and (7) the protruding bay at the second floor on the east side of the building; and

WHEREAS, in response, the applicant has agreed to (1) keep the site maintained free of excess garbage and keep the garbage in the first floor storage area, (2) remove the shed, (3) eliminate the parking space at the front of the building, (4) replace the masonry wall with fencing that is compatible with the residential character of the neighborhood, and (5) replace the portions of the masonry and brickfacing with brick that more closely resembles that of buildings in the vicinity; and

WHEREAS, at hearing, the Board directed the applicant that it complete all of the noted site modifications and obtain a new certificate of occupancy within a short timeframe; and

WHEREAS, in response to the Community Board's concerns, the Board notes that the applicant has agreed to implement fire safety measures and has noted such on the proposed plans; and

WHEREAS, as to the remaining Community Board concerns, the applicant has stated that the Synagogue will work with the community to address issues as they arise and resolve them in a timely manner; and

WHEREAS, accordingly, the Board finds that this action will neither 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 applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Synagogue could occur on the existing lot; and

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR

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§ 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6 NYCRR; 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.06BSA084Q, dated November 14, 2006; 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 each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R4 zoning district, the legalization of an enlargement to a three-story Use Group 4 synagogue, which does not comply with front yard and side yards, contrary to ZR §§ 24-35 and 23-34, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 7, 2007" – (6) sheets and "Received September 26, 2007" – (1) sheet; and *on further condition*:

THAT any change in control or ownership of the building shall require the prior approval of the Board;

THAT landscaping, including two street trees on 78<sup>th</sup> Road, and shrubbery and plantings within the fenced enclosure on the 153<sup>rd</sup> Street frontage, shall be provided and maintained as per the BSA-approved plans;

THAT no parking shall be permitted onsite;

THAT the site, during construction and under regular operation, shall be maintained safe and free of debris;

THAT garbage shall be stored in the indoor storage area on the first floor, as noted on the BSA-approved plans, except when in the designated area for pick-up;

THAT any and all lighting shall be directed downward and away from adjacent residences;

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

THAT all site work shall be completed within nine months of the date of this grant (by July 2, 2008) and a new certificate of occupancy shall be obtained within 15 months of the date of this grant (by January 2, 2009);

THAT the building parameters shall remain: three stories, a street wall and total height of 35'-0", 4,217 sq. ft. of floor area (1.68 FAR), a side yard with a width of 14.06 feet at the rear of the building, one front yard of 15'-0" (on 78<sup>th</sup> Road), and one front yard of 5'-4" (on 153<sup>rd</sup> Street);

THAT DOB shall confirm that the building complies with all Building Code and safety measures;

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, October 2, 2007.

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## 286-06-BZ

APPLICANT – Eric Palatnik, P.C., for Avrohom Horowitz, owner; Congregation Darkel Chaim, Inc., lessee.

SUBJECT – Application October 20, 2006 – Variance (§72-21) to permit the proposed two-story addition to the rear of the three-story structure which is currently under construction and to allow for the inclusion of a Use Group 4 synagogue at the premises. The premises is located in an R5 (Borough Park) zoning district. The proposal is contrary to floor area (§24-162a), side yards (§24-35), and the number of stories (§24-33).

PREMISES AFFECTED – 1847 60<sup>th</sup> Street, north side of 60<sup>th</sup> Street, between 18<sup>th</sup> Avenue and 19<sup>th</sup> Avenue, Block 5512, Lot 58, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4  
Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 7, 2007, acting on Department of Buildings Application No. 301908853, reads:

"Proposed Community Facility: Side yards are

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contrary to ZR 24-35(a)”; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21, to permit, on a site within an R5 zoning district within the Special Borough Park District, a proposed one-story addition to the rear of an existing three-story residential building currently under construction and to allow for the inclusion of a Use Group 4 synagogue at the premises, which does not comply with side yards, contrary to ZR § 24-35; and

WHEREAS, a public hearing was held on this application on April 17, 2007, after due notice by publication in *The City Record*, with continued hearings on June 5, 2007, June 19, 2007, August 7, 2007, and September 18, 2007, and then to decision on October 2, 2007; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, and Commissioner Otley-Brown; and

WHEREAS, Community Board 12, Brooklyn, recommends approval of the application with the following condition: that there be two 8’-0” side yards in the rear portion of the premises and that only one floor be built as part of the addition; and

WHEREAS, this application is being brought on behalf of Avrohom Horowitz, owner, and Congregation Darkei Chaim, Inc., lessee, a non-profit religious entity (the “Synagogue”); and

WHEREAS, the subject premises is located on the north side of 60<sup>th</sup> Street between 18<sup>th</sup> and 19<sup>th</sup> Avenues, and is currently occupied by a partially constructed residential building; and

WHEREAS, Congregation Darkei Chaim is a new congregation, incorporated in 2006 and created to provide an outlet for the younger congregants and their families from Congregation Givath Shoul, which has outgrown its facilities located at 5102 11<sup>th</sup> Avenue, Brooklyn; and

WHEREAS, this application originally sought waivers with respect to ZR §§ 24-162a (floor area) and 24-33 (number of stories for a community facility) in addition to the remaining waiver with respect to ZR § 24-35 (side yards); and

WHEREAS, during the hearing process, the proposal was revised several times; the current proposal provides for a one-story and cellar synagogue with two accessory apartments on the second and third floors with the following parameters: total building height of 34’-0” at the front of the building and 23’-0” at the portion of the building built within the rear yard, 7,744 sq. ft. of total floor area, an FAR of 1.93 (2.4 FAR is the maximum permitted), and one side yard of 4’-0” in the portion of the building built in the rear yard, with Use Group 4 synagogue space on the cellar level and first floor, and accessory residential space and a Succoh on the second and third floors; and

WHEREAS, the proposed building will have the following program: (1) a multi-purpose room, mikvahs, shower and dressing rooms, and a laundry and storage room in the cellar; (2) Use Group 4 synagogue space with women’s gallery on the first floor; (3) a rabbi’s apartment accessory to the synagogue on the second floor; and (4) a Balkora’s apartment accessory to the

synagogue and a Succoh on the third floor; and

WHEREAS, the applicant states that the primary programmatic need of the Synagogue is to accommodate the growing congregation; and

WHEREAS, the applicant states that Congregation Givath Shoul, of which Congregation Darkei Chaim is an offshoot, has experienced growth of 150 percent over the last three years, and has outgrown its current facility; and

WHEREAS, the Board acknowledges that the Synagogue, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution’s application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, however, the applicant also presents the following site condition which create an unnecessary hardship in developing the site in compliance with applicable side yard regulations: if both required 8’-0” side yards for community facilities were provided, the complying building would have a width of only twenty-four feet, which would not be sufficient to accommodate the needs of the congregation; and

WHEREAS, the applicant states that the permissible floor area cannot be accommodated while complying with the as-of-right side yard parameters and allow for efficient floor plates that will accommodate the Synagogue’s programmatic needs, thus necessitating the requested waiver of these provisions; and

WHEREAS, based upon the above, the Board finds that the aforementioned physical conditions, when considered in conjunction with the programmatic needs of the Synagogue, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Synagogue is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the synagogue will be housed in a building already under construction and that the addition at the rear to accommodate the synagogue within this building will not further alter the street façade of the 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 use is permitted in the subject zoning district; and

WHEREAS, the applicant initially proposed a 8,767 sq. ft. three-story building (2.19 FAR) with a height of 34’-0” at the front of the building and 23’-0” at the part of the building built within the rear yard, and one side yard of 4’-0” at the part of the

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building built within the rear yard; and

WHEREAS, at hearing, the Board asked the applicant to justify the programmatic need for the floor area sought originally, especially with respect to the second-floor prayer room, and whether the activities intended for the prayer room could be accommodated in other spaces when they were not otherwise occupied; and

WHEREAS, in response, the applicant eliminated the prayer room and provided a 5'-0" rear yard; and

WHEREAS, as to traffic impact and parking, the applicant noted that the traffic impact would be minimal as a majority of congregants live nearby and would walk to services, specifically to worship services on Fridays and Saturdays when they are not permitted to drive; and

WHEREAS, accordingly, the Board finds that this action will neither 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 applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Synagogue could occur on the existing lot; 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, through the hearing process, the applicant revised the proposal to eliminate the waivers for floor area and number of stories for a community facility, partly by moving the function of the second-floor prayer room to the cellar multi-purpose room; and

WHEREAS, the Board considered the modifications noted above and finds the requested waivers to be the minimum necessary to afford the Synagogue the relief needed both to meet its programmatic needs and to construct a building that is compatible with the character of the neighborhood; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6 NYCRR; 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.07BSA032K, dated February 1, 2007; 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 each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R5 zoning district within the Special Borough Park District, a proposed three-story and cellar Use Group 4 synagogue, which does not comply with side yards requirements for community facilities, contrary to ZR § 24-35, *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 September 5, 2007" – five (5) sheets and "Received September 20, 2007" – four (4) sheets; and *on further condition*:

THAT any change in control or ownership of the building shall require the prior approval of the Board;

THAT the building parameters shall be: a floor area of 7,744 sq. ft. (1.93 FAR), three stories, a total height of 34'-0" at the front of the building and 23'-0" at the part of the building built within the rear yard, and one side yard of 4'-0" at the part of the building built within the rear yard;

THAT the use shall be limited to a Use Group 4 house of worship;

THAT the site, during construction and under regular operation, shall be maintained safe and free of debris;

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, October 2, 2007.

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## 164-07-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Rouse SI Shopping Center, LLC, owner; ME Clinic Two LLC, lessee.

SUBJECT – Application June 15, 2007 – Special Permit (§73-36) to allow a Physical Culture Establishment that will occupy one storefront within a multiple-store mall containing retail stores and eating and drinking establishments (Use Group 6). The proposal is contrary to section 32-10. C4-1 district.

PREMISES AFFECTED – (280 Marsh Avenue) The Crossings @ Staten Island Mall, north of Platinum Avenue, west of Marsh Avenue, east of Staten Island Mall Dr., Block 2400, Lot 300, Borough of Staten Island.

## COMMUNITY BOARD # 2SI

### APPEARANCES –

For Applicant: Adam Rothkrug.

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

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4  
Negative:.....0

### THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated May 24, 2007, acting on Department of Buildings Application No. 510001258, reads in pertinent part:

“Proposed physical culture or health establishment (massage establishment) in C4-1 district, is contrary to Section 32-10 ZR and requires a special permit from the Board of Standards and Appeals”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-1 zoning district, the establishment of a physical culture establishment (PCE) in a one-story commercial unit within a shopping mall complex, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 18, 2007, after due notice by publication in *The City Record*, and then to decision on October 2, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Ottley-Brown; and

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

WHEREAS, the subject site is located within The Crossings at Staten Island Mall, which is north of Platinum Avenue, west of Marsh Avenue, and east of Staten Island Mall Drive; and

WHEREAS, the PCE will occupy a 3,081 sq. ft. commercial unit within a one-story mall building with a total floor area of 75,909 sq. ft.; and

WHEREAS, the PCE will be operated as Massage Envy; and

WHEREAS, the applicant represents that the PCE will

offer massage treatments, including trigger point therapy, Swedish massage, deep tissue massage, sports massage, reflexology, and cranial sacral therapy; and

WHEREAS, the proposed hours of operation are: Monday through Friday, 8:00 a.m. to 10:00 p.m.; Saturday, 8:00 a.m. to 6:00 p.m.; and Sunday, 10:00 a.m. to 6:00 p.m.; 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 PCE 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 ZR §§ 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, CEQR No. 07BSA100R, dated August 17, 2007; and

WHEREAS, the EAS documents that the operation of the PCE 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 operation of the PCE 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 ZR §§ 73-36 and 73-03, to permit, on a site within a C4-1 zoning district, the establishment of a physical culture establishment in a one-story commercial unit within a shopping mall complex,

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contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received August 20, 2007" - three (3) sheets; and *on further condition*:

THAT the term of this grant shall expire on October 2, 2017;

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 all massages shall be performed by New York State licensed massage therapists;

THAT the hours of operation shall be limited to: Monday through Friday, 8:00 a.m. to 10:00 p.m.; Saturday 8:00 a.m. to 6:00 p.m.; and Sunday, 10:00 a.m. to 6:00 p.m.;

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 shall be installed and/or maintained as shown on the Board-approved plans;

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

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 the 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, October 2, 2007.

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## 10-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Samuel Benitez, owner.

SUBJECT – Application January 20, 2005 – Zoning variance under §72-21 to allow a five (5) story residential building containing twenty-seven (27) dwelling units and fifteen (15) parking spaces contrary to use regulations (§42-00); M1-2 district.

PREMISES AFFECTED – 443 39<sup>th</sup> Street, a/k/a 459 39<sup>th</sup> Street, 39<sup>th</sup> Street between 4<sup>th</sup> Avenue and 5<sup>th</sup> Avenue, Block 705, Lot 53, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 1:30 P.M, for decision, hearing closed.

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## 315-05-BZ

APPLICANT – David L. Businelli, AIA, for Diggy's LLC, owner.

SUBJECT – Application October 28, 2005 – Zoning variance under §72-21 to allow a two-story horizontal extension of an existing three-story mixed commercial retail (UG 6) and residential building containing one (1) dwelling unit. Twenty (20) open accessory parking spaces are proposed. Proposed commercial use is contrary to use regulations (ZR §22-10). R3X district (Special South Richmond District).

PREMISES AFFECTED – 862 Huguenot Avenue, South side of Huguenot Avenue, 0' east from Hawley Avenue. Block 6815, Lot 32, Borough of Staten Island.

### COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: David Businelli and John Piscopo.

For Opposition: Janet Sullivan.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 1:30 P.M, for decision, hearing closed.

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## 59-06-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Paul Schillace, owner, Carvel Ice Cream, lessee.

SUBJECT – Application April 3, 2006 – Zoning variance under §72-21 to allow a one-store retail building (UG 6) with thirteen (13) unenclosed accessory parking spaces contrary to use regulations (§ 22-00); R4 district.

PREMISES AFFECTED – 1006 East 233<sup>rd</sup> Street, Southeast corner of Paulding Avenue, Block 4879, Lot 40, Borough of The Bronx.

### COMMUNITY BOARD # 12BX

APPEARANCES –

For Applicant: Carl A. Sulfaro.

For Opposition: Nedra P. Thomas, Audrey Edwards.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 20, 2007, at 1:30 P.M, for decision, hearing closed.

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## 83-06-BZ

APPLICANT – Eric Palatnik, P.C., for Simon Blitz, owner.

SUBJECT – Application May 2, 2006 – Variance (§72-21) to allow the conversion and two (2) story enlargement of an existing four story industrial building. The proposed multi-family building will contain six (6) floors, ground floor retail use, and fourteen (14) dwelling units. No parking spaces are proposed. The proposal would exceed the maximum floor area ratio (§123-64 (a)) and applicable height and setback

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requirements (§123-662). The project site is located within the Hunters Point Subdistrict of the Special Long Island City Mixed Use District and is zoned M1-4/R6A (LIC).

PREMISES AFFECTED – 47-33 Fifth Street, north side of 5<sup>th</sup> Street, between 48<sup>th</sup> Avenue and 47<sup>th</sup> Road, Block 30, Lot 26, Borough of Queens.

## COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 1:30 P.M., for decision, hearing closed.

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## 306-06-BZ

APPLICANT – Sheldon Lobel, P.C., for 60 Lawrence, LLC, owner.

SUBJECT – Application November 21, 2006 – Variance (§72-21) to permit the construction of a one and six-story religious school building with the one-story portion along the rear lot line. The premises is located in a split M1-1/R5 zoning district and the Ocean Parkway Special Zoning District. The proposal is contrary to the use regulations (§42-00), floor area and lot coverage (§24-11), front yard (§24-34), side yards (§24-35), and front wall (§24-52).

PREMISES AFFECTED – 50 Lawrence Avenue, south side of Lawrence Avenue, approximately 36' east of McDonald Avenue, Block 5422, Lot 10, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** – Laid over to November 20, 2007, at 1:30 P.M., for continued hearing.

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## 33-07-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Marathon Hosiery, Co., Inc., owner.

SUBJECT – Application August 7, 2007 – Variance (§72-21) to permit the conversion of the upper four floors of an existing five-story manufacturing building for residential use. The Premises is located in a M1-1 zoning district. The proposal is contrary to §42-00.

PREMISES AFFECTED – 25 Carroll Street, north side of Carroll Street, 200' east of intersection with Van Brunt Street, Block 347, Lot 54, Borough of Brooklyn.

## COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to November 20, 2007, at 1:30 P. M., for continued hearing.

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## 71-07-BZ

APPLICANT– Walter T. Gorman, P.E., for Exxon Mobile Corporation, owner; Ted Zorbas, lessee.

SUBJECT – Application March 26, 2007 – Re-instatement for the continued use of a Variance (ZR §11-411 and §73-01(d)) which expired June 27, 2001 for the operation of a UG16 Gasoline Service Station (Exxon Mobil) in anC1-4/R-6 & R-5 zoning district.

PREMISES AFFECTED – 32-05 21<sup>st</sup> Street, south side 21<sup>st</sup> Street blockfront between Broadway and 33<sup>rd</sup> Avenue, Block 555, Lot 16, Borough of Queens.

## COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: John Ronan and Ted Zorbas.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 1:30 P.M., for decision, hearing closed.

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## 79-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Power Test Realty Company, LP, owner.

SUBJECT – Application April 12, 2007 – under §11-411 to re-establish the previously granted variance permitting the operation of an automotive service station with accessory uses which is not permitted as-of-right in a C2/2R3-2 zoning district as per section 32-10 of the zoning resolution. The prior BSA grant was under calendar number 711-53-BZ and expired on July 24, 2001.

PREMISES AFFECTED – 114-05 Farmers Boulevard, east side of Farmers Boulevard between Murdock Avenue and 114<sup>th</sup> Road, Block 11007, Lot 5, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Josh Rinesmith.

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 1:30 P. M., for continued hearing.

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## 114-07-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Sullivan Mountain RE, LLC, owner.

SUBJECT – Application May 7, 2007 – Special Permit (§73-19) to allow a day-care center (school), (UG3). M1-1 district.

PREMISES AFFECTED – 7-05 152<sup>nd</sup> Street, 152<sup>nd</sup> Street, east side at intersection with Powells Cove Boulevard, Block 4531, Lot 35, Borough of Queens.

## COMMUNITY BOARD # 7Q

APPEARANCES –

For Applicant: Joseph P. Morsellino, Timothy O'Sullivan, Christopher Commarota and Neil Colmenares.

For Opposition: Councilmember Tony Avella, Wan Yu Tam,

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Maria H. Stern, Helen A. Paladino and James J. Raymon  
**ACTION OF THE BOARD** – Laid over to November 27, 2007, at 1:30 P. M., for continued hearing.  
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**122-07-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Kingswood Partners, LLC, owner; TSI Midwood LLC, owner.

SUBJECT – Application May 15, 2007 – Special Permit (§73-36) to legalize the operation of a Physical Culture Establishment on portions of the first and second floors of a three-story commercial building. The proposal is contrary to section 32-00. C4-4A zoning district.

PREMISES AFFECTED – 1630 East 15<sup>th</sup> Street, westerly side of East 15<sup>th</sup> Street, 50’ north of Kings Highway, Block 6777, Lots 17 and 24, Borough of Brooklyn.

**COMMUNITY BOARD # 15BK**

APPEARANCES –

For Applicant: Lyra J. Altman and Fredrick A. Becker.

**ACTION OF THE BOARD** – Laid over to November 27, 2007, at 1:30 P. M., for continued hearing.  
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**148-07-BZ**

APPLICANT – Ivan Khoury, for Kerry Riorden, owner; Tribeca Spa of Tranquility, lessee.

SUBJECT – Application June 6, 2007 – Special Permit (§73-36) to allow the legalization of a Physical Culture Establishment. The proposal is contrary to section 42-10. M1-5 zoning district within the Tribeca Mixed-Use Special District.

PREMISES AFFECTED – 462 Greenwich Street, 49’-8.5” south from the corner of Greenwich and Watts Streets, Block 224, Lot 28, Borough of Manhattan.

**COMMUNITY BOARD #1M**

APPEARANCES –

For Applicant: Ivan Khoury.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 30, 2007, at 1:30 P.M, for decision, hearing closed.  
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**176-07-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Fei Guo, owner.

SUBJECT – Application June 29, 2007 – Variance (§72-21) to permit the alteration and enlargement of an existing one-story single family home for commercial use. The proposal is contrary to sections 22-12 (use), 23-45(a) (front yard), and 23-461(a) (required 5’ side yard). R4 district.

PREMISES AFFECTED – 50-34 69<sup>th</sup> Street, a/k/a 68-18 Garfield Avenue, southwest corner of the intersection of

Garfield Avenue and 69<sup>th</sup> Street, Block 2425, Lot 33, Borough of Queens.

**COMMUNITY BOARD #2Q**

APPEARANCES –

For Applicant: Adam W. Rothkrug and Chris Yee.

**ACTION OF THE BOARD** – Laid over to November 20, 2007, at 1:30 P. M., for continued hearing.  
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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

# MINUTES

## \*CORRECTION

This resolution adopted on September 11, 2007, under Calendar No. 80-54-BZ,II and printed in Volume 92, Bulletin Nos. 34-35, is hereby modified to read as follows:

### 80-54-BZ, Vol. II

APPLICANT – Sheldon Lobel, P.C., for Dryden Hotel Associates LLC, owner.

SUBJECT – Application July 2, 2007 – ZR §11-411 for the Extension of Term of a previously granted variance which, which expired on July 2, 2006, to permit commercial uses on the first floor and cellar of an existing residential building located in an R8B zoning district; the Extension of Time to obtain a Certificate of Occupancy which expired on April 24, 2002 and a Waiver of the rules.

PREMISES AFFECTED – 150 East 39<sup>th</sup> Street, Located on south side of 39th Street between Third and Lexington Avenues, Block 894, Lot 52, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Josh Rinesmith.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative:.....0

### THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of time to obtain a certificate of occupancy, and an extension of the term for a previously granted variance to permit commercial uses (Use Group 6) on the first floor and cellar of an existing residential building, which expired on July 2, 2006; and

WHEREAS, a public hearing was held on this application on August 14, 2007, after due notice by publication in *The City Record*, and then to decision on September 11; and

WHEREAS, the subject premises is a 16-story mixed-use building located on the south side of East 39<sup>th</sup> Street, between 3<sup>rd</sup> and Lexington Avenues, within an R8B zoning district; and

WHEREAS, on December 13, 1955, under the instant BSA Cal. No., the Board granted a variance to permit office and retail uses on floors 1-5 of the premises; and

WHEREAS, the variance was subsequently amended to convert all floors of the premises except the cellar and first floor to as-of-right residential use; and

WHEREAS, the term of the variance was last extended on July 2, 1996 for a period of ten (10) years, expiring on July 2, 2006; and

WHEREAS, on April 23, 2002, the Board amended the variance to permit the use of a portion of the cellar for a

recreation room with fitness equipment for residents of the premises, and required that an amended Certificate of Occupancy be obtained within one year; and

WHEREAS, this application seeks to extend the term of the variance for an additional ten years and to extend the time to obtain an amended Certificate of Occupancy; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term, extension of time to obtain a certificate of occupancy, and amendment are appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated December 13, 1955, so that as amended this portion of the resolution shall read: “to grant an extension of the special permit for a term of ten (10) years from the expiration of the last grant, to expire on July 2, 2016; to grant a one-year extension of term to obtain a certificate of occupancy; *on condition* that all conditions and drawings associated with the previous grant remain in effect; and *on further condition*:

THAT this grant shall expire on July 2, 2016;

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

THAT an amended Certificate of Occupancy shall be obtained by September 11, 2008;

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. 104817352)

Adopted by the Board of Standards and Appeals, September 11, 2007.

**\*The resolution has been corrected in the Therefore clause. Corrected in Bulletin No. 38, Vol. 92, dated October 11, 2007.**

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## \*CORRECTION

This resolution adopted on September 11, 2007, under Calendar No. 152-07-BZ and printed in Volume 92, Bulletin No. 33, is hereby corrected to read as follows:

### 152-06-BZ

#### CEQR #07-BSA-003K

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Gregory Montalbano, owner.

SUBJECT – Application July 11, 2006 – Special Permit (§73-125) to allow the proposed two-story ambulatory diagnostic/treatment care facility containing 5,565 square feet of floor area and parking for fourteen vehicles. The Premise is located in an R3X zoning district. The proposal is contrary to §22-14.

PREMISES AFFECTED – 82 Lamberts Lane, southwest corner of Lamberts and Seldin Avenue, Block 1609, Lot 16, Borough of Staten Island.

#### COMMUNITY BOARD #2SI

##### APPEARANCES –

For Applicant: Adam W. Rothkrug.

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

##### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson..4

Negative:.....0

##### THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated June 19, 2006, acting on Department of Buildings Application No. 500837810, reads in pertinent part:

“ZR 22-14

Use Group 4–A Community facilities –  
\*\*\*Ambulatory diagnostic or treatment health care facilities.

\*\*\*Not permitted in R1 or R2 Districts and, in R3A, R3X, R3-1, R4A, R4B or R4-1 Districts, limited to a maximum of 1,500 square feet of *floor area*. Application does not comply with such”;

WHEREAS, this is an application under ZR §§ 73-125 and 73-03, to permit, on a site within an R3X zoning district, the construction of a two-story building with a cellar to be occupied by an ambulatory diagnostic/treatment health care facility (Use Group 4) with 14 parking spaces, contrary to ZR § 22-14; and

WHEREAS, a public hearing was held on this application on February 27, 2007 after due notice by publication in *The City Record*, and with continued hearings on May 15, 2007, June 12, 2007, and July 17, 2007, and then to decision on August 14, 2007; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Hinkson; and

WHEREAS, Community Board 2, Staten Island, recommends disapproval of this application; and  
WHEREAS, Councilmember Oddo recommends disapproval of this application based on concerns about traffic and parking; and

WHEREAS, Borough President Molinaro recommends disapproval of this application, based on concerns about traffic and effects on neighborhood character; and

WHEREAS, the New York City Fire Department (FDNY) recommends disapproval of this application, citing, *inter alia*, concerns about the potential impact the proposed use would have on traffic and emergency response by FDNY vehicles; and

WHEREAS, the subject site is located on the west side of Seldin Avenue, between Roman Avenue and Lamberts Lane, within an R3X zoning district ; and

WHEREAS, the site has a lot area of 9,876 sq. ft. and is currently improved upon by a single-family home with a floor area of 1,378 sq. ft., which would be demolished as part of the proposed construction; and

WHEREAS, the proposed facility would contain 5,565 sq. ft. of floor area (0.56 FAR); and

WHEREAS, accordingly, 14 parking spaces will be provided (14 parking spaces are required); and

WHEREAS, the applicant represents that the facility will provide Use Group 4 ambulatory diagnostic and treatment health care services related to the practice of orthopedics, including arthroscopic procedures; and

WHEREAS, a 1,500 sq. ft. ambulatory diagnostic/treatment health care facility use is available as-of-right, and

WHEREAS, the special permit pursuant to Z.R. § 73-125 would allow an increase in the floor area of the ambulatory diagnostic/treatment health care facility use from 1,500 sq. ft. up to a maximum of 1.0 FAR (9,876 sq. ft.) on the site; and

WHEREAS, the proposed ambulatory diagnostic/treatment health care facility complies with zoning in all other respects; and

WHEREAS, approximately eight (8) persons would work at the proposed facility, which would have operating hours of 8 a.m. to 5 p.m. Monday through Friday; and

WHEREAS, the applicant, based on concerns expressed by the board at hearing, changed the roofline of the building to minimize its visual impact; and

WHEREAS, with respect to concerns about traffic, the applicant submitted a traffic analysis based on actual projected operation of the proposed ambulatory diagnostic/treatment health care facility with two doctors that showed that actual traffic from the proposed ambulatory diagnostic/treatment health care facility and incremental traffic generated by the special permit would not exceed City Environmental Quality Review (CEQR) screening levels; and

WHEREAS, at the Board’s request, the applicant analyzed a generic Use Group 4 diagnostic/treatment health care facility, which analysis projected both the total traffic

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increase from the proposed ambulatory diagnostic/treatment health care facility and the incremental traffic increase from the special permit; and

WHEREAS, FDNY requested a full traffic study; and

WHEREAS, however, the applicant's additional traffic analyses demonstrate that neither the incremental nor the actual traffic generated by the proposed ambulatory diagnostic/treatment health care facility would generate enough peak-hour trips to create a significant impact at any intersection; and

WHEREAS, the trip generation levels demonstrated for the proposed building are well below threshold levels under City Environmental Quality Review that would require further analysis to determine whether they might result in significant adverse impacts on traffic; and

WHEREAS, pursuant to CEQR procedures, no further traffic analysis is required; and

WHEREAS, while the Board recognizes that traffic in the area of the proposed diagnostic/treatment health care facility is heavy, any additional traffic generated would be minimal and does not warrant further study; and

WHEREAS, the Board notes that the applicant is providing all of the required parking; and

WHEREAS, in response to assertions of opposition the project within the neighborhood expressed at hearing, the applicant provided evidence in the form of letters and other documentation to demonstrate support for the project by neighbors; and

WHEREAS, approximately 70% of the zoning lot will remain as open space (including landscaping and parking areas); and

WHEREAS, accordingly, the Board finds that the amount of open area and its distribution on the lot conform to standards appropriate to the character of the neighborhood; and

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

WHEREAS, the facility will have a floor area of less than 10,000 square feet; 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 ZR §§ 73-125 and 73-03; and

WHEREAS, the project is classified as Unlisted 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, CEQR No. 07BSA003R, dated November 20, 2006; and

WHEREAS, the EAS documents that the operation of the facility 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, a trip generation analysis dated July 16, 2007 determined that the proposed action would generate less than fifty (50) new vehicle trips in any peak hour (below the CEQR Technical Manual threshold for conducting a detailed analysis of traffic impacts) and therefore the proposed action would not have any potentially significant adverse impacts related to traffic and parking; and

WHEREAS, the Board has determined that the operation of the facility 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 ZR §§ 73-125 and 73-03, to permit, on a site within an R3X zoning district, construction of a two-story and cellar building to be occupied by an ambulatory diagnostic/treatment health care facility (Use Group 4) with 14 parking spaces, contrary to ZR § 22-14; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 31, 2007"—eleven (11) sheets; and *on further condition*:

THAT there shall be no change in use of the facility without prior application to and approval from the Board;

THAT landscaping shall be provided and maintained, as per the approved plans;

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

THAT the parameters of the building shall be as follows: 5,565 sq. ft. of floor area and 14 parking spaces, as per the approved plans;

THAT the curb cuts shall be approved by DOT and/or New York City Transit, as required, prior to the issuance of any permits;

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

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

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

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Adopted by the Board of Standards and Appeals,  
August 14, 2007.

**\*The resolution has been corrected in the Therefore clause and the fifth THAT clause. Corrected in Bulletin No. 38, Vol. 92, dated October 11, 2007.**

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**\*CORRECTION**

This resolution adopted on September 11, 2007, under Calendar Nos. 264-07-BZ and printed in Volume 92, Bulletin Nos. 34-35, is hereby corrected to read as follows:

**264-06-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Miriam Schwartz and Michael Schwartz, owners.

SUBJECT – Application September 26, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (§23-141(a)); lot coverage (§23-141(b)); side yard (§23-461) and rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1632 East 28<sup>th</sup> Street, East 28<sup>th</sup> Street between Avenue P and Quentin Road, Block 6790, Lot 11, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Lyra Altman.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4  
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 28, 2006, acting on Department of Buildings Application No. 302211782, reads in pertinent part:

- “1. Proposed floor area contrary to ZR 23-141.
2. Proposed open space ratio contrary to ZR 23-141.
3. Proposed side yard contrary to ZR 23-461.
4. Proposed rear yard contrary to ZR 23-47.
5. Proposed lot coverage is contrary to ZR 23-141b”; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, side yards, rear yard, and lot coverage, contrary to ZR §§ 23-

141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on March 6, 2007, after due notice by publication in *The City Record*, with continued hearings on April 17, 2007, May 15, 2007, June 5, 2007, July 10, 2007, and August 7, 2007, and then to decision on September 11, 2007; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, and Commissioner Ottley-Brown; and

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

WHEREAS, certain neighbors provided testimony at hearing and in writing in opposition to the application (the “Opposition”), citing concerns about the proposal not being compatible with neighborhood character and whether it constituted an enlargement; and

WHEREAS, the subject site is located on the west side of East 28<sup>th</sup> Street, between Avenue P and Quentin Road; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft., and is occupied by a single-family home with a floor area of 2,230.7 sq. ft. (0.45 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,230.7 sq. ft. (0.45 FAR) to 5,022.2 sq. ft. (1.0 FAR); the maximum floor area permitted is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will decrease the open space ratio from 75.81 percent to 56.1 percent (a minimum open space ratio of 65 percent is required); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard of 3’-4” and the complying side yard of 9’-6” (side yards with a total width of 13’-0” and a minimum width of 5’-0” each are required); and

WHEREAS, the proposed enlargement will reduce the rear yard from 33’-2” to 20’-0” (the minimum rear yard required is 30’-0”); and

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

WHEREAS, the applicant proposes to increase the lot coverage from 24.35 percent to 43.9 percent (35 percent is the maximum permitted); and

WHEREAS, at hearing, the Board asked the applicant to address two issues: (1) which portions of the existing home will be retained and (2) neighborhood character; and

WHEREAS, as to the amount of the building that will be retained, the applicant identified the portions of the building which would be retained and noted that DOB had accepted the plans as an Alteration 1 application; and

WHEREAS, the Board asked the applicant specifically to address how certain floor joists would be retained; and

WHEREAS, the applicant responded that some foundation walls will support floor joists and not walls; and

WHEREAS, as to neighborhood character, the Board

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noted that there are several blocks in the vicinity of the home, occupied by a majority of homes with similar features including both front and rear yards with depths of 30'-0" and a raised or terraced front yard; and

WHEREAS, at hearing, the Board asked the applicant to provide information about the depths of front yards in the noted area; and

WHEREAS, initially, the applicant asserted that since a front yard waiver was not being requested (a 15'-0" front yard is the minimum required and an 18'-8" front yard is proposed), the Board did not have authority to review the front yard and thus the context for front yards was not relevant to the Board's findings; and

WHEREAS, the Board agrees that the applicant has 0.05 FAR of available floor area and could build an as of right enlargement into the existing front yard; and

WHEREAS, however, the Board disagrees with the applicant's interpretation of the Board's authority under the special permit and asserts that it may request information about neighborhood character and evaluate a proposal accordingly, regardless of whether a particular waiver is sought; and

WHEREAS, specifically, ZR § 73-622 provides that "the Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located" and "The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area"; and

WHEREAS, ultimately, the applicant submitted block front plans of adjacent homes, which reflect the front yard depths of approximately 30'-0" on both sides of East 28<sup>th</sup> Street on the subject block except for at the corner lots; and

WHEREAS, the applicant submitted information which reflects that at least two other homes in the vicinity have yards with depths ranging from 23'-0" to 25'-10"; and

WHEREAS, further, the applicant notes, and the Board agrees, that the Opposition incorrectly included the depth of the area beyond the front property line in measurements of nearby front yards; and

WHEREAS, additionally, the Opposition asserted that the applicant erred by identifying the yards with depths of 4'-0" on the corner lots as front yards, rather than side yards; and

WHEREAS, the Board agrees with the applicant that the noted yards are front yards with depths of 4'-0"; and

WHEREAS, during the hearing process, the applicant increased the depth of the proposed front yard from 17'-8" at its shallowest point and 19'-0" at its deepest point to 18'-8" and 20'-0", respectively; and

WHEREAS, the Board notes that a majority of the front yard will have a depth of 20'-0"; and

WHEREAS, the applicant proposes to provide a stepped front wall to be compatible with the neighborhood character; and

WHEREAS, at the Board's direction, the applicant also ensured that the roof lines comply with all height and sky

exposure plane regulations; and

WHEREAS, the applicant also modified the plans to appropriately indicate which portions of the attic would be considered floor area; and

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

WHEREAS, the Board finds that 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 ZR §§ 73-622 and 73-03.

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, side yards, rear yard, and lot coverage, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received June 25, 2007"-(6) sheets and "July 31, 2007"-(6) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the floor area of the attic shall be limited to 697 sq. ft.;

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

THAT the following shall be the bulk parameters of the building: a total floor area of 5,022.2 sq. ft., a total FAR of 1.0, a perimeter wall height of 21'-0", a total height of 35'-0", a front yard of 18'-8", side yards of 3'-4" and 9'-6", a rear yard of 20'-0", and open space of 2,803.8 sq. ft., as illustrated on the BSA-approved plans;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant

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

Adopted by the Board of Standards and Appeals, September 11, 2007.

**\*The resolution has been corrected in the 7<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup>, 27<sup>th</sup>, & 28<sup>th</sup> WHEREAS clauses. Corrected in Bulletin No. 38, Vol. 92, dated October 11, 2007.**

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**\*CORRECTION**

This resolution adopted on September 11, 2007, under Calendar Nos. 112-07-BZ and printed in Volume 92, Bulletin Nos. 34-35, is hereby modified to read as follows:

**112-07-BZ**

**CEQR #07-BSA-079K**

APPLICANT – Law Office of Fredrick A. Becker, for Congregation Bnai Shloima Zalman, owners.

SUBJECT – Application June 14, 2007 – Variance (§72-21) to permit the construction of a synagogue. The Premises is located in an R2 zoning district. The proposal is contrary to floor area ratio and lot coverage (§24-11), side yards (§24-35), rear yard (§24-36), wall height (§24-521) and parking (§25-31).

PREMISES AFFECTED – 1089-1093 East 21<sup>st</sup> Street, East 21<sup>st</sup> Street between Avenue I and Avenue J, Block 7585, Lots 21 & 22 (Tent. 21), Borough of Brooklyn.

**COMMUNITY BOARD # 14BK**

APPEARANCES –

For Applicant: Lyra Altman.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson..4

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 5, 2007, acting on Department of Buildings Application No. 302334034, reads in pertinent part:

“Proposed plans are contrary to ZR 24-11 in that the proposed building exceeds the maximum permitted floor area ratio of .5.

Proposed plans are contrary to ZR 24-11 in that the proposed lot coverage is more than the maximum permitted lot coverage of 55%.

Proposed plans are contrary to ZR 24-34 in that the proposed front yard is less than the minimum required front yard of 15’.

Proposed plans are contrary to ZR 24-35 in that the

proposed side yards are less than the minimum required side yards allowed.

Proposed plans are contrary to ZR 24-36 in that the proposed rear yard is less than the minimum required rear yard of 30’.

Proposed plans are contrary to ZR 24-521 in that the proposed wall height exceeds the maximum wall height of 25’.

Proposed plans are contrary to ZR 25-31 in that there are no parking spaces proposed”;

and  
WHEREAS, this is an application for a variance pursuant to ZR § 72-21, to permit, on a site within an R2 zoning district, the proposed construction of a two-story and cellar Use Group 4 synagogue, which does

not comply with floor area, FAR, lot coverage, front yard, side yards, rear yard, wall height, and parking requirements for community facilities, contrary to ZR §§ 24-11, 24-34, 24-35, 24-36, 24-521, and 25-31; and

WHEREAS, a public hearing was held on this application on August 7, 2007, after due notice by publication in *The City Record*, with a continued hearing on September 11, 2007, and decided on September 11, 2007; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Hinkson; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application with the condition that the fence along the north property line be protected and/or restored and that garbage be stored within the building; and

WHEREAS, this application is being brought on behalf of Congregation Bnai Shloima Zalman, a non-profit religious entity (the “Synagogue”); and

WHEREAS, the subject premises is located on the east side of East 21<sup>st</sup> Street, between Avenue I and Avenue J, and is occupied by a two-story and cellar synagogue, which will be demolished; and

WHEREAS, the site has a total lot area of 5,500 sq. ft.; and

WHEREAS, on June 7, 1994, under BSA Cal. No. 160-93-BZ, the Board granted a variance to permit the legalization of an enlargement to an existing synagogue at the site; and

WHEREAS, the prior grant provided for waivers of floor area, FAR, lot coverage, wall height, yards, and parking; and

WHEREAS, the applicant represents that the existing building is obsolete, has sustained water damage, and does not meet the Synagogue’s current programmatic needs; and

WHEREAS, the current proposal provides for a two-story and cellar synagogue with the following parameters: a street wall of 24’-0”, a total height of 34’-10”, 7,236.41 sq. ft. of floor area (2,750 sq. ft. is the maximum permitted); and an FAR of 1.32 (0.50 FAR is the maximum permitted for a community facility), with Use Group 4 synagogue use in the entire building; and

WHEREAS, additionally, the applicant proposes 76 percent lot coverage (a maximum of 55 percent is permitted); no side yards (two side yards of 8’-0” feet each are the minimum

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required) a front yard of 7'-9" (a front yard of 15'-0" is the minimum required), no rear yard (a rear yard of 30'-0" is the minimum required), and no parking spaces (36 parking spaces are required); and

WHEREAS, the proposed building will have the following program: (1) a multi-purpose room and mikvah in the cellar; (2) the main sanctuary for men and a library on the first floor; and (3) the women's gallery on the second floor; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue: (1) to provide sufficient space to accommodate the congregation of approximately 275 families; (2) to provide separate space for men and women during prayer; and (3) to provide space for meetings and programs other than worship services; and

WHEREAS, the applicant states that the proposed amount of space would accommodate the existing congregation; the existing building can only accommodate approximately 275 people seated, or one seat per family; and

WHEREAS, the applicant states that it is religious tradition to provide separate space for men and women during prayer and that the current size and

configuration of the worship space does not provide sufficient space for both men and women to worship at the same time; and

WHEREAS, the applicant represents that meeting space is required for educational programs accessory to the Synagogue and for groups to meet outside of the worship space; and

WHEREAS, further, the Synagogue requires a space for providing food to congregants somewhere other than in the worship space, which is intended to remain sacred; and

WHEREAS, the applicant notes that the proposed synagogue is designed with a moveable partition on the first floor so that the space can be divided into smaller spaces for meetings, but opened up into a large worship space when needed; and

WHEREAS, additionally, the applicant represents that the current building is obsolete in that it lacks adequate restroom facilities and the cellar is no longer functional due to water damage; and

WHEREAS, the applicant states that the required floor area cannot be accommodated within the as-of-right floor area, lot coverage, and yard parameters and allow for efficient floor plates that will accommodate the Synagogue's programmatic needs, thus necessitating the requested waivers of these provisions; and

WHEREAS, the applicant argues that the requested yard waivers would enable the Synagogue to develop the site with a building with viable floor plates; and

WHEREAS, the applicant states that in addition to facilitating sufficient floor plates, the waivers also allow the Synagogue's height to fit into the context of the neighborhood; and

WHEREAS, the Board acknowledges that the Synagogue, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Synagogue create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Synagogue is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; 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 use is permitted in the subject zoning district and that the Synagogue has existed at the site for several decades; and

WHEREAS, specifically, the applicant represents that the use of the multi-purpose room in the cellar may hold gatherings for members of the congregation approximately once a month for a maximum of approximately 175 people, but will be limited to those parameters for such events; and

WHEREAS, the Board notes that the immediate area is characterized by two- and two-and-a-half-story detached homes, and a number of other community facilities; and

WHEREAS, as to height, the Board notes that the majority of the building will have a street wall height of 24'-0", which is lower than the existing street wall height of 28'-2"; only the center portion of the building will reach a peak of 34'-10"; and

WHEREAS, the applicant represents that the tower, which encroaches into the sky exposure plane is a permitted obstruction because it does not have any floor area in the portion that penetrates the sky exposure plane; and

WHEREAS, the applicant states that this tower, with a pitched roof, was designed to resemble a dormer, which is a permitted obstruction for homes in the area and is compatible with neighborhood character; and

WHEREAS, the Board notes that the proposed building will provide open space with a width of 7'-0" on both sides of the front of the building and will maintain the front yard of 7'-9"; and

WHEREAS, at hearing, the Board asked the applicant to provide an analysis of the requested parking waiver; and

WHEREAS, the applicant represents that this proposal would meet the requirements for a parking waiver at the City Planning Commission, pursuant to ZR § 25-35 – Waiver for Locally Oriented Houses of Worship; and

WHEREAS, in support of this assertion, the applicant submitted evidence reflecting that at least 83 percent of the

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congregants live within three-quarters of a mile of the site; and

WHEREAS, the Board notes that this exceeds the minimum requirement set forth in ZR § 25-35 that at least 75 percent of the congregants live within three-quarters of a mile of the subject site in order to qualify as a localized congregation; and

WHEREAS, in response to the Community Board's conditions, the applicant agrees to (1) repair and maintain the fence along the north property line at the adjacent neighbor's request; and (2) maintain garbage in a designated area in the cellar until it is removed for collection; and

WHEREAS, accordingly, the Board finds that this action will neither 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 applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Synagogue could occur on the existing lot; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6 NYCRR; 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.07BSA079K, dated June 14, 2007; 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 each

and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R2 zoning district, the proposed construction of a two-story and cellar Use Group 4 synagogue, which does not comply with floor area, FAR, lot coverage, front yard, side yards, rear yard, wall height, and parking requirements for community facilities, contrary to ZR §§ 24-11, 24-34, 24-35, 24-36, 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 June 14, 2007" – six (6) sheets and "Received August 27, 2007" – five (5) sheets; and "Received September 10, 2007" – one (1) sheet; and *on further condition*:

THAT any change in control or ownership of the building shall require the prior approval of the Board, which may be done by letter, if appropriate;

THAT the building parameters shall be: a floor area of 7,236.41 sq. ft. (1.32 FAR), two stories, a street wall height of 24'-0", a total height of 34'-10", lot coverage of 76 percent, and a front yard of 7'-9";

THAT the use shall be limited to a house of worship (Use Group 4) and any classes shall be accessory to this use;

THAT the use of the cellar kitchen shall be limited to warming;

THAT no commercial catering shall take place onsite;

THAT the site, during construction and under regular operation, shall be maintained safe and free of debris;

THAT garbage shall be stored inside the building except when in the designated area for pick-up;

THAT any and all lighting shall be directed downward and away from adjacent residences;

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

THAT any rooftop mechanicals shall comply with all applicable Building Code and other legal requirements, including noise guidelines, 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, September 11, 2007.

**\*The resolution has been modified in the first and second THAT clauses. Corrected in Bulletin No. 38, Vol. 92, dated October 11, 2007.**

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*Jeff Mulligan, Executive Director*