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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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Volume 92, No. 47

December 13, 2007

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## DIRECTORY

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- 223-90-A            114 Kreischer Street, Staten Island
- 1199-88-BZ        29 Nelson Avenue, Staten Island
- 170-47-BZ        1982 Crotona Parkway, Bronx
- 651-60-BZ        600 West 246<sup>th</sup> Street, Bronx
- 83-97-BZ        214-18 24<sup>th</sup> Street, Queens
- 162-06-A    2852 Faber Terrace, Queens
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- 105-07-A thru
- 108-07-A    198-24/28 47<sup>th</sup> Avenue & 47-17/18 199<sup>th</sup> Avenue, Queens
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**Affecting Calendar Numbers:**

- 146-07-BZ            439 East 77<sup>th</sup> Street, Manhattan

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# DOCKETS

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New Case Filed Up to December 4, 2007  
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**271-07-BZ**

213-219 West 23rd Street, The north side of 23rd Street between Seventh and Eighth Avenues., Block 773, Lot(s) 34, Borough of **Manhattan, Community Board: 4**. Special Permit (73-03) to allow for the legalization of a Physical Culture Establishment within cellar & Variance for continued occupancy of the fitness within the portion of lot R-8A. R8 Zoning prohibits the use of PCE's.  
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**272-07-BZ**

344 Amsterdam Avenue, Westside Amsterdam Avenue between West 76th And West 77th Streets., Block 1168, Lot(s) 30, Borough of **Manhattan, Community Board: 7**. Special Permit (73-03 & 73-36) to allow a Physical Culture Establishment.  
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**273-07-BZ**

1435 East 22nd Street, 140" North from the intersection of East 22nd Street and Avenue N., Block 7658, Lot(s) 13, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) for the enlargement of a single family home.  
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**274-07-BZ**

1157 83rd Street, Located on the northern side of 83rd Street between 11th Avenue and 12th Avenue., Block 6301, Lot(s) 54, Borough of **Brooklyn, Community Board: 10**. Special Permit (73-622) for the enlargement of a single family home.  
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**275-07-BZ**

249-32 Caney Road, Vacant triangular lot with 249th Street to the west, Caney Road to the north, and Weller Avenue to the east., Block 13580, Lot(s) 22, Borough of **Queens, Community Board: 13**. Variance to allow a two-story and cellar single family residence.  
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**276-07-A**

249-32 Caney Road, Vacant triangular lot with 249th Street to the west, Caney Road to the north, and Weller Avenue to the east., Block 13580, Lot(s) 22, Borough of **Queens, Community Board: 13**. Appeal seeking to permit construction of 8% of the perimeter of the building fronting directly upon a legally mapped street or frontage space.  
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**277-07-BZ**

165-35 North Conduit Avenue, North west corner of North Conduit Avenue & Guy R, Brewer Boulevard., Block 12318, Lot(s) 10, Borough of **Queens, Community Board: 12**. Special Permit (11-40) for the erection of a one story automotive service station with accessory convenience store.  
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**278-07-BZ**

630 West 168th Street, Two "superblocks" bounded by Broadway, West 165th Streets, Riverside Drive, and Fort Washington Avenue., Block 2139, Lot(s) 30,40,1,15,80,85, Borough of **Manhattan, Community Board: 12**. Variance to allow three 30-foot identifying signs at entrance to medical center campus.  
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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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**JANUARY 15, 2008, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, January 15, 2008, 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**

**121-95-BZ**

APPLICANT – Francis R. Angelino, Esq., for 37 West 46th Street Realty Corporation, owner.

SUBJECT – Application September 17, 2007 – Extension of Term/Waiver for a previously granted special permit (§73-36) for a physical culture establishment (Osaka Health Spa) on the third floor and mezzanine level of a six story mixed used building in a C6-4.5 zoning district which expired on February 6, 2006.

PREMISES AFFECTED – 37 West 46<sup>th</sup> Street, north/south West 46<sup>th</sup> Street, between 5<sup>th</sup> and 6<sup>th</sup> Avenues, Block 1262, Lot 20, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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**APPEALS CALENDAR**

**140-07-A**

APPLICANT – Rothkrug Rothkrug & Spector, LLP

Owner: Breezy Point Cooperative, Incorporated

Lessee: Thomas Carroll

SUBJECT – Application May 25, 2007 – Appeals seeking to reverse the Department of Building's decision to revoke permits and approvals for a one family home. R4 Zoning district.

PREMISES AFFECTED – 607 Bayside Drive, North west intersection of Bayside Drive and zoning street know as Service Lane, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**270-07-A**

APPLICANT – Sheldon Lobel, P.C., for Washington Hall Holdings, LLC, owner.

SUBJECT – Application November 27, 2007 – seeking a determination that the owner has acquired a common law vested right to continue development under the prior R6 zoning.

PREMISES AFFECTED – 163-167 Washington Avenue, approximately 80' from the northeast corner of Myrtle Avenue and Washington Avenue, Block 1890, Lots 1, 4, 82, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

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**JANUARY 15, 2008, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, January 15, 2008, 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**

**143-07-BZ**

APPLICANT – Moshe M. Friedman, for Chabad House of Canarsie, Inc., owner.

SUBJECT – Application June 4, 2007 – Variance (§72-21) to permit the construction of a three-story and cellar synagogue, religious pre-school, and Mikva. The proposal is contrary to sections §24-111 (a) and §23-141 (a) (Floor Area and FAR), §24-11 (Open Space and Lot Coverage), §24-521 (Front Wall and Sky Exposure Plane), §24-34 (Front Yard), §24-35 (Side Yard), §25-31 (Parking). R2 district.

PREMISES AFFECTED – 6404 Strickland Avenue, south east corner of Strickland Avenue and East 64<sup>th</sup> Street, Block 8633, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

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**193-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Alex Gonter and Mark Gonter, owners.

SUBJECT – Application August 7, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space (§23-141); side yard (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 3591 Bedford Avenue, eastern side of Bedford Avenue between Avenue N and O, Block 7679, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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**217-07-BZ**

APPLICANT – Eric Palatnik, PC, for Clara Tarantul, owner.

SUBJECT – Application September 24, 2007 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary floor area, open space and lot coverage (§23-141(a)); rear yard (§23-47) and side yards (§23-461) in an R3-1 zoning district.

PREMISES AFFECTED – 25 Beaumont Street, between Shore Boulevard and Hampton Avenue, Block 8728, Lot 95, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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# CALENDAR

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**236-07-BZ**

APPLICANT – Jay A. Segal, Esq., for Hope Street Ventures, LLC, owner.

SUBJECT – Application October 17, 2007 – Special Permit (§73-46) to allow a waiver of parking requirements for a residential conversion of an existing building. 46 spaces are required; 11 spaces are proposed. M1-2/R6A (MX-8) district.

PREMISES AFFECTED – 53-65 Hope Street, north side of Hope Street between Havemeyer Street and Marcy Avenue, Block 2369, Lot 38, 40, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

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**249-07-BZ**

APPLICANT – Harold Weinberg, P.E., for Varda Grodtko, owner.

SUBJECT – Application November 2, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary side yard requirement (§23-461) in an R3-2 zoning district.

PREMISES AFFECTED – 1865 East 28<sup>th</sup> Street, east side, 215' north of Avenue S between Avenue R and S, Block 6834, Lot 58, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, DECEMBER 4, 2007  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**997-84-BZ**

APPLICANT – Stadtmauer Bailkin, LLP, for 222 Union Associates, owner.

SUBJECT – Application March 2, 2007 – Extension of Term/Amendment/Waiver for a special permit which expired on September 10, 2005, to revise the BSA plans to reflect existing conditions utilizing the Board’s formula for attended parking of one space per 200 square feet, and the legalization of the existing automobile lifts within the parking garage.

PREMISES AFFECTED – 800 Union Street, southside of Union Street, between 6<sup>th</sup> and 7<sup>th</sup> Avenues, Block 957, Lot 29, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES –

For Applicant: Calvin Wong.

**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 amendment to increase the number of parking spaces, and an extension of the term for a previously granted variance, which expired on September 10, 2005; and

WHEREAS, a public hearing was held on this application on September 11, 2007, after due notice by publication in *The City Record*, with continued hearings on October 16, 2007 and November 20, 2007, and then to decision on December 4, 2007; and

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

WHEREAS, Community Board 6, Brooklyn, recommends approval of this application; and

WHEREAS, the subject premises is located on the south side of Union Street, between Sixth Avenue and Seventh Avenue; and

WHEREAS, the site is located within an R6A zoning district and is occupied by a six-story parking garage; and

WHEREAS, the parking garage has a total floor area of 52,110 sq. ft.; and

WHEREAS, in 1929, under BSA Cal. No. 271-29-BZ,

the Board granted a variance to permit the construction of a parking garage and gasoline station at the site; and

WHEREAS, in 1959, under BSA Cal. No. 490-59-BZ, the Board granted a change in use to the manufacture and storage of incombustibles; and

WHEREAS, on September 10, 1985, under the subject calendar number, the Board granted an amendment, pursuant to ZR § 11-413, to permit a change in use to a parking garage and automobile rental office for a term of ten years; and

WHEREAS, the grant was subsequently extended for an additional ten-year term; and

WHEREAS, this application seeks to extend the term of the variance for an additional ten years; and

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

WHEREAS, additionally, the applicant seeks to legalize an increase in the number of parking spaces from 149 to 237; this number includes 20 parking spaces for rental cars on the second floor; and

WHEREAS, the applicant initially requested the legalization of the existing 261 parking spaces; and

WHEREAS, during the hearing process, the Board inquired about whether the use and operation of the auto stackers was Building and Fire Code compliant; and

WHEREAS, in response, the applicant determined that the stackers could not be fully compliant and feasibly accommodated on the upper floors and would be relocated to the cellar, which is fully-sprinklered; and

WHEREAS, the applicant represents that the floor-to-ceiling height in the cellar is adequate for the proposed stackers and that the proposed layout complies with all DOB requirements; and

WHEREAS, at hearing, the Board noted that it would request DOB to review and confirm that the stackers in the cellar comply with all relevant regulations; and

WHEREAS, due to the relocation of the stackers to the cellar, the applicant represents that it is unable to accommodate the existing 44 stackers and will reduce the number to 26; and

WHEREAS, the Board directs the applicant to come into compliance with the plans associated with this grant and remove the 18 excess stackers within six months of the date of this grant; and

WHEREAS, the applicant will also relocate the 20 auto rental parking spaces from the cellar to the second floor; and

WHEREAS, additionally, the Board directed the applicant to provide sufficient reservoir parking for cars entering and exiting the site; and

WHEREAS, in response, the applicant revised the plans to provide 12 reservoir spaces on the first floor, which accommodates five percent of the total capacity of the garage; and

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

WHEREAS, based upon its review of the record, the Board finds that proposed extension of term and site modifications are appropriate with certain conditions as set forth below.

# MINUTES

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens, and amends the resolution, dated September 10, 1985, so that as amended this portion of the resolution shall read: "to grant an extension of the variance for a term of ten years from the prior expiration, to expire on September 10, 2015 and to permit the noted site modifications; on condition that any and all work shall substantially conform to drawings filed with this application marked "Received November 8, 2007"-(7) sheets and "December 3, 2007"-(3) sheets; and; and on further condition:

THAT this grant shall expire on September 10, 2015;

THAT the number of cars parked onsite shall be limited to 217 for public parking and 20 for auto rental parking;

THAT a minimum of 12 reservoir spaces shall be provided at the ground level;

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

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

THAT all work shall be performed and a new certificate of occupancy shall be obtained within six months of this grant, by June 4, 2008;

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

THAT DOB will confirm compliance with equipment specifications for all auto stackers;

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." (Alt. 863/84)

Adopted by the Board of Standards and Appeals, December 4, 2007.

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## 223-90-A

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Frank A. Burton, Jr., owner.

SUBJECT – Application April 3, 2007 – Amendment of a previous grant under the General City Law Section 36 to remove a Board condition requiring that no permanent Certificate of Occupancy shall be issued until a Corporation Counsel Opinion of Dedication has been obtained for Kresicher Street and to approve the enlargement of the site and building. M1-1 Zoning district.

PREMISES AFFECTED – 114 Kreischer Street, west side of Kreischer Street, 140.8' north of Androvette Street, Block 7408, Lot 8, Borough of Staten Island.

## COMMUNITY BOARD #3SI

### 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, this is an application for a re-opening and an amendment to a grant pursuant to General City Law § 36, to permit the enlargement of the site and the existing building; and

WHEREAS, a public hearing was held on this application on September 25, 2007, after due notice by publication in the *City Record*, with a continued hearing on November 20, 2007, and then to decision on December 4, 2007; and

WHEREAS, Community Board 3, Staten Island, recommends approval of the subject application; and

WHEREAS, the subject premises is located on the west side of Kreischer Street, between Androvette Street and Winant Place, in an M1-1 zoning district within the Special South Richmond Development District; and

WHEREAS, Kreischer Street, Androvette Street, and Winant Place are all paved and improved, but not legally mapped streets; and

WHEREAS, on March 19, 1991, under the subject calendar number, the Board granted a waiver of the General City Law § 36, to permit the enlargement of an existing warehouse structure (Use Group 16) on a site (Lot 8) that does not front on a legally mapped street; and

WHEREAS, in 1995, DOB approved another enlargement of the existing building; and

WHEREAS, the applicant now seeks to merge Lot 8 with the adjacent lot to the north, Lot 10, to form a single lot, Lot 8; and

WHEREAS, the existing Lot 8 has a lot area of approximately 7,168 sq. ft. and Lot 10 has a lot area of approximately 9,722 sq. ft.; the merged Lot 8 has a total lot area of approximately 16,890 sq. ft.; and

WHEREAS, the existing Lot 8 is occupied by a two and one-half story building with a one-story garage; and

WHEREAS, the total floor area of the existing building is 5,087.62 sq. ft.; and

WHEREAS, Lot 10 is occupied by two buildings, which will be demolished; and

WHEREAS, the applicant proposes to enlarge the existing warehouse building onto Lot 10 for a total floor area of 14,673.68 sq. ft. (0.87 FAR); and

WHEREAS, the Board directed the applicant to ensure compliance with the Special South Richmond Development District regulations with respect to buffering between the site and adjacent residential uses; and

WHEREAS, in response, the applicant submitted a reconsideration from DOB, which states that since the adjacent lot to the west (Lot 31) is occupied by a commercial use, no buffering is required there and since the adjacent lot to the north (Lot 17) provides a landscape buffer along the common lot line on Lot 17, no landscape buffer is required on Lot 8; and

WHEREAS, the applicant has recorded a restrictive declaration agreement to maintain an 8'-0" landscaped buffer

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# MINUTES

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on Lot 17 and to maintain the existing distance of between 17.57 feet and 17.97 feet between the shared lot line and the building on Lot 17; and

WHEREAS, the applicant represents that the proposed building and use of the site complies with all zoning district regulations; and

WHEREAS, the Fire Department has reviewed the proposal and has no objections, and

WHEREAS, the applicant agreed to provide sidewalk to match the existing sidewalk in front of existing Lot 8 for the entire width of the merged Lot 8, at the Department of Transportation's request; and

WHEREAS, the applicant initially sought to eliminate the condition of the prior grant, which requires the issuance of a Corporation Counsel Opinion of Dedication prior to obtaining a certificate of occupancy; and

WHEREAS, the Board did not find any compelling reason to remove the noted condition and determined that it would be maintained; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement of the zoning lot and enlargement of the building are appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, dated March 19, 1991, so that as amended this portion of the resolution shall read: "to permit the enlargement of Lot 8 and the associated enlargement of the warehouse building; *on condition* that any and all work shall substantially conform to drawings filed with this application marked "Received December 4, 2007 -(1) sheet; and; and *on further condition*:

THAT a Corporation Counsel Opinion of Dedication shall be obtained for Kreisler Street, between Winant Place and Androvetta Street, prior to the issuance of a certificate of occupancy;

THAT continuous matching sidewalk shall be installed and maintained for the entire width of the new Lot 8, as per DOT's request;

THAT a restrictive declaration agreement shall be recorded and maintained to ensure the maintenance of an 8'-0" landscaped buffer on adjacent Lot 17 and to maintain the existing distance of between 17.57 feet and 17.97 feet between the shared lot line and the building on Lot 17;

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

THAT all conditions from the prior resolution 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. 50024216)

Adopted by the Board of Standards and Appeals, December 4, 2007.

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**1199-88-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector LLP., for Joseph and Rosemarie Tranchina, owner.

SUBJECT – Application May 11, 2007 – Amendment filed pursuant to §§72-01 & 72-22 of the zoning resolution to permit within a C1-1(R3-1)(SRD) the enlargement of previously approved banquet hall (use group 9) and a change in use from offices (use group 6) to retail stores (use group 6).

PREMISES AFFECTED – 29 Nelson Avenue, east side of Nelson Avenue, northeast corner of Nelson Avenue and Locust Place, Block 5143, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

APPEARANCES –

For Applicant: Adam Rothkrug and Joseph Tranchina.

**ACTION OF THE BOARD** – Laid over to January 8, 2008, at 10 A.M., for continued hearing.  
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**170-47-BZ**

APPLICANT – Kenneth H. Koons, for Royal Automation Supplies Corporation, owner.

SUBJECT – Application October 9, 2007 – Extension of Term of a (UG 16) storage warehouse in the cellar, used in conjunction with a (UG 17) factory on the first floor, in an R7-1 zoning district which expired on November 25, 2007.

PREMISES AFFECTED – 1982 Crotona Parkway, east side of Crotona Parkway, south of East 178<sup>th</sup> Street, Block 3121, Lot 11, Borough of Bronx.

**COMMUNITY BOARD #6BX**

APPEARANCES –

For Applicant: Kenneth M. Koons.

**ACTION OF THE BOARD** – Laid over to January 8, 2008, at 10 A.M., for continued hearing.  
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**651-60-BZ**

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for Briar Hill Realty LLC c/o Glennwood Management Corporation, owner.

SUBJECT – Application September 14, 2007 – Extension of Term of a variance allowing the conversion of cellar space in an existing multiple dwelling to a valet service, office/stationary store and packaged goods store and to waive the Board's Rules of Procedure to allow the application to be filed more than thirty days after the expiration of the variance. The subject site is located in an R4 zoning district,

PREMISES AFFECTED – 600 West 246<sup>th</sup> Street, Located on an irregularly shaped lot bounded by the south side of West 246<sup>th</sup> Street, the east side of Independence Avenue and the north side of Blackstone Avenue, Block 5909, Lot 825, Borough of Bronx.

**COMMUNITY BOARD #8BX**

APPEARANCES –

# MINUTES

For Applicant: James C. Power.  
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 January 8,  
2008, at 10 A.M., for decision, hearing closed.

## 83-97-BZ

APPLICANT – Sheldon Lobel, P.C., for Gary S. Chubak  
and Lillian R. Chubak, owners.

SUBJECT – Application October 3, 2007 – Amendment -To  
remove the terms set forth in the prior resolution. The  
proposed amendment would authorize the control operation  
of the health care facility (UG4) at the premises located in  
an R1-2 zoning district with out a term.

PREMISES AFFECTED – 214-18 24th Street, south side of  
24th Avenue, approximately 142 feet east of the corner  
formed by the intersection of Bell Boulevard and 24th  
Avenue, Block 6001, Lot 47, Borough of Queens.

### COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Elizabeth Safiar.

**ACTION OF THE BOARD** – Laid over to January 8,  
2008, at 10 A.M., for continued hearing.

## 162-06-A

APPLICANT – Adam Rothkrug, Esq., for Edgewater  
Developers & Builders, Inc., owner.

SUBJECT – Application July 25, 2006 – Proposed  
construction of a single family home located partially  
within the bed of a mapped street (Edgewater Road )  
contrary to General City Law Section 35. R2 Zoning  
district.

PREMISES AFFECTED – 2852 Faber Terrace, intersection  
of Faber Terrace and Proposed Edgewater Road, Block  
15684, Lot 161, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to January 8,  
2008, at 10 A.M., for an adjourned hearing.

## 165-06-A

APPLICANT – Adam Rothkrug, Esq., for Edgewater  
Developers & Builders, Inc., owner.

SUBJECT – Application July 25, 2006 – Proposed  
construction of a single family home located partially within  
the bed of a mapped street (Edgewater Road) contrary to  
General City Law Section 35. R2 Zoning district.

PREMISES AFFECTED – 2848 Faber Terrace, intersection  
of Faber Terrace and Proposed Edgewater Road, Block  
15684, Lot 61, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to January 8,  
2008, at 10 A.M., for an adjourned hearing.

## 105-07-A thru 108-07-A

APPLICANT – Paul Bonfilio Architect, P.C., for Tom and  
Angelika Davis, owners.

SUBJECT – Application May 2, 2007 – Proposed  
construction of four two family semi detached dwellings  
located within the bed of mapped street (199th) contrary to  
General City Law Section 35. R3-2 Zoning district.

PREMISES AFFECTED –

198-24 47<sup>th</sup> Avenue, south side of 47<sup>th</sup> Avenue, 165.37' west  
of Francis Lewis Boulevard, Block 5618, Lot 49.

198-28 47<sup>th</sup> Avenue, south side of 47<sup>th</sup> Avenue, 165.37' west  
of Francis Lewis Boulevard, Block 5619, Lot 20.

47-17 199<sup>th</sup> Avenue, south side of 47<sup>th</sup> Avenue, 165.37' west  
of Francis Lewis Boulevard, Block 5618, Lot 49.

47-18 199<sup>th</sup> Street, south side of 47<sup>th</sup> Avenue, 165.37' west  
of Francis Lewis Boulevard, Block 5618, Lot 49, Borough  
of Queens

### COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Paul Bonfilio.

For Opposition: T. Pouymari.

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 December  
11, 2007, at 10 A.M., for decision, hearing closed.

## 196-07-A thru 199-07-A

APPLICANT – Willy C. Yuin, R.A., for Carmine Lacertosa,  
owner.

SUBJECT – Application August 9, 2007 – Proposed  
construction of one & two family homes not fronting on a  
legally mapped street contrary to Article 3 Section 36 of the  
General City Law. R-5 Zoning district.

PREMISES AFFECTED – 9 Federal Place, west of Federal  
Place 195.91' south of the corner of Richmond Terrace and  
Federal Place, Block 1272, Lot 72, 76, 77, 79, Borough of  
Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Willy C. Yuin, R.A.

**ACTION OF THE BOARD** – Laid over to January  
15, 2008, at 10 A.M., for continued hearing.

*Jeffrey Mulligan, Executive Director*

Adjourned: 10:30 A.M.

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**REGULAR MEETING  
TUESDAY AFTERNOON, DECEMBER 4, 2007  
1:30 P.M.**

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

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**ZONING CALENDAR**

**52-07-BZ**

APPLICANT – Lewis Garfinkel, R.A., for Egal Shasho, owner.

SUBJECT – Application February 23, 2007 – Special Permit (§73-622) for the enlargement of an existing one family detached residence. This application seeks to vary open space and floor area (§23-141); perimeter wall height (§23-361) and rear yard (§23-47) in an R3-2 zoning district. PREMISES AFFECTED – 1576 East 27<sup>th</sup> Street, west side of East 27<sup>th</sup> Street, Block 6773, Lot 43, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Edward Gourdine.

**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 February 20, 2007, acting on Department of Buildings Application No. 302294112, reads in pertinent part:

1. Proposed plans are contrary to Z.R. 23-14(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%.
2. Proposed plans are contrary to Z.R. 23-141(b) in that the proposed Open Space is less than the required 65%.
3. Proposed plans are contrary to Z.R. 23-631(b) in that the [perimeter wall] height of building exceeds 21'-0".
4. Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than 30'-0".; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space, perimeter wall height, and rear yard, contrary to ZR §§ 23-14, 23-141, 23-47, and 23-631; and

WHEREAS, a public hearing was held on this application on June 5, 2007, after due notice by publication in *The City Record*, with continued hearings on July 24, 2007, September 11, 2007, October 23, 2007, November 20,

2007 and November 27, 2007, and then to decision on December 4, 2007; and

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

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

WHEREAS, the subject site is located on the west side of East 27<sup>th</sup> Street, between Kings Highway and Avenue P; and

WHEREAS, the subject site has a total lot area of 3,000 sq. ft., and is occupied by a single-family home with a floor area of 1,803 sq. ft. (0.60 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 1,803 sq. ft. (0.60 FAR) to 3,055 sq. ft. (1.02 FAR); the maximum floor area permitted is 1,800 sq. ft. (0.60 FAR); and

WHEREAS, the proposed enlargement will provide open space of 1,851.96 sq. ft. (1,950 sq. ft. is the minimum required); and

WHEREAS, the proposed enlargement will provide for a perimeter wall height of 24'-3" (a perimeter wall height of 21'-0" is the maximum permitted except, under certain conditions, when a proposed enlargement may match the perimeter wall height of an adjacent home with an existing non-complying perimeter wall height); and

WHEREAS, the proposed enlargement will provide a 20'-0" rear yard (a minimum rear yard of 30'-0" is required); and

WHEREAS, the enlargement of the building is not located within 20'-0" of the rear lot line; and

WHEREAS, at hearing the Board directed the applicant to provide confirmation from DOB that earlier construction performed on the home was legally performed and complies with zoning district regulations; and

WHEREAS, in response, the applicant provided a Letter of Completion from DOB stating that the construction was completed and signed off pursuant to relevant regulations; and

WHEREAS, DOB also stated that a new certificate of occupancy is not required for the work performed; and

WHEREAS, at hearing, the Board directed the applicant to survey the adjacent property to confirm its front perimeter wall height; and

WHEREAS, in response, the applicant provided information that reflects the front perimeter wall height of the adjacent building is 24'-3"; and

WHEREAS, accordingly, the Board directed the applicant to revise the proposed plans to reflect a perimeter wall height not to exceed 24'-3" so as to comply with the provisions of ZR § 73-622; 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

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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, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio open space, perimeter wall height, and rear yard, contrary to ZR §§ 23-14, 23-141, 23-47, and 23-631; 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 November 15, 2007"-(12) 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 865 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 3,055 sq. ft. (1.02 FAR), a rear yard with a minimum depth of 20'-0", a perimeter wall with a maximum height of 24'-3", and a total building height of 35'-0", as illustrated on the BSA-approved plans;

THAT all dormers, balconies, and porches shall be as approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, December 4, 2007.

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## 58-07-BZ

APPLICANT – Rex Carner c/o Carner Associates, for Mr. Vito Savino, owner.

SUBJECT – Application March 5, 2007 – Variance (§72-21) to permit a new two-family dwelling on a vacant lot. The Premises is located in an R3A zoning district. The proposal is contrary to lot area (§23-32), residential FAR (§23-141), and parking (§25-21).

PREMISES AFFECTED – 18-02 Clintonville Street, North west corner of 18 Avenue and Clintonville Street. Block 4731, Lot 9, Borough of Queens.

## COMMUNITY BOARD # 7Q

APPEARANCES –

For Applicant: Rex Carner.

**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 March 1, 2007, acting on Department of Buildings Application No. 402320332, reads in pertinent part:

1. Section 23-32 (ZR) The existing tax lot/zoning lot is less than required minimum lot area; and
2. Section 23-141 (B/ZR) The proposed floor area ratio exceeds the permitted maximum;" and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3A zoning district, the construction of a two-story two-family home on a lot that does not comply with the minimum lot area and exceeds the maximum floor area ratio, contrary to ZR §§ 23-32 and 23-141; and

WHEREAS, a public hearing was held on this application on September 11, 2007, after due notice by publication in *The City Record*, with continued hearings on October 16, 2007, November 20, 2007, and then to decision on December 4, 2007; and

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

WHEREAS, Community Board 7, Queens, recommended disapproval of an earlier iteration of this application, citing concerns with impacts to the view corridor caused by the configuration of the home, and a proposed parking waiver, and recommended that the home be built as one-family home, rather than the two-family home as proposed; and

WHEREAS, the site is a vacant lot located at the northwest corner of 18<sup>th</sup> Avenue and Clintonville Street; and

WHEREAS, the proposed building will have the following non-complying parameters: a lot area of 2,180 sq. ft. and an FAR of 0.74; and

WHEREAS, the minimum lot size in the subject R3A zoning district is 2,375 sq. ft. and the maximum FAR is 0.50 (0.60 with attic); and

WHEREAS, the applicant originally proposed a two-story two-family home with an FAR of 0.83 and a parking waiver for one car; and

WHEREAS, the current proposal is for a two-story two-family home with an FAR of 0.74 without a parking

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waiver; and

WHEREAS, because the intersection of Clintonville Street and 18<sup>th</sup> Avenue does not form a right angle, the site is an irregularly shaped rectangle, with approximately 69 feet of frontage along 18<sup>th</sup> Avenue and an angled frontage on Clintonville Street of approximately 33 feet; the site has a range of depths from 69 feet to 86.60 feet; and

WHEREAS, the applicant states that the site cannot be developed without a variance, due to its insufficient lot size, and also contends that additional floor area is necessary, for reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the lot's small size; and (2) the irregular shape of the lot; and

WHEREAS, as to the lot's size, the applicant notes that the without a waiver of ZR § 23-32, which provides for a minimum lot area of 2,375 sq. ft., the site could not be developed; and

WHEREAS, the applicant has represented that the subject lot has been in existence since at least January 28, 1969, subsequent to a widening of Clintonville Street and annexation of the former tax lot that reduced its area by 30 percent; and

WHEREAS, the applicant notes that a multi-family building with ground floor commercial space was formerly located on the site and that the site has been vacant since its condemnation and demolition; and

WHEREAS, the Board agrees that because of the size of the lot, no as-of-right development is possible; and

WHEREAS, additionally, the applicant notes that the site is irregularly-shaped with a range of widths from 86'-60" to 69'-14"; and

WHEREAS, the applicant notes that, given the small lot size and shape, the maximum FAR of 0.60 would severely constrain the floor plates that could be constructed, resulting in an unmarketable home; and

WHEREAS, the Board notes that the site is one of few uniquely small sites that are vacant or under-developed within a 400' radius, and within the surrounding three-block radius it is the only vacant lot; and

WHEREAS, the Board further notes that the other under-developed lots in the area, comprising five lots with buildings of less than 0.50 FAR out of a total of 21, are on lots that range from 3,100 sq. ft. and 4,100 sq. ft. in size, and therefore can reasonably accommodate a two-family home under the permissible FAR; and

WHEREAS, the Board also notes that all the other comparably-sized residential lots are currently developed with two-family homes and exceed their permissible FAR (ranging from 0.68 to 1.82 FAR); and

WHEREAS, the Board agrees that the lot size and FAR waivers are necessary in order to construct a habitable and marketable building; and

WHEREAS, thus, the Board finds that the aforementioned unique physical conditions, when

considered in the aggregate, create a practical difficulty in developing the site in compliance with the applicable zoning provisions; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that a complying and viable development could be constructed; and

WHEREAS, the applicant represents that the variance, if granted, 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 house complies with all R3A zoning district regulations aside from lot size and FAR, and that the proposed bulk and height is compatible with the other residential buildings in the immediate vicinity; and

WHEREAS, as to concerns raised by the Community Board regarding the impacts on the view corridor, the Board notes that based upon its review of the submitted land use map, the submitted pictures, and its site visits, the area surrounding the site is characterized by numerous detached two-story buildings, comparable in size or larger than the proposed home; and

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

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

WHEREAS, the applicant had originally sought a parking waiver for one car and an FAR of 0.83; and

WHEREAS, at the Board's direction, the applicant eliminated the parking waiver and will provide two parking spaces on the site; and

WHEREAS, the Board finds that this proposal for 312 sq. ft. of additional floor area is the minimum necessary to afford the applicant relief; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21, to permit, in an R3A zoning district, the construction of a two-story two-family home on a lot that does not comply with minimum lot area and exceeds the maximum floor area ratio, contrary to ZR §§ 23-32 and 23-141; *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 October 12, 2007"-- (9) sheets; and *on further condition*:

THAT all bulk parameters, including a maximum floor area ratio of 0.74, shall be as reflected on the BSA-approved plans;

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

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed 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, December 4, 2007.

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## 110-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Crosby Landmark Corporation, owner.

SUBJECT – Application May 3, 2007– Special Permit under § 73-63 to allow the enlargement of a non-residential building. M1-5B district.

PREMISES AFFECTED – 53 Crosby Street, east side of Crosby Street between Spring Street and Broome Street, Block 482, Lot 7, Borough of Manhattan.

### COMMUNITY BOARD #2M

#### 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 Manhattan Borough Commissioner, dated September 25, 2007, acting on Department of Buildings Application No. 104592282, reads in pertinent part:

“Proposed vertical enlargement is contrary to ZR Sections 43-12, 43-17 and 54-30;” and

WHEREAS, this is an application under ZR §§ 73-63 and 73-03 to permit the enlargement of an existing six-story non-residential building containing Use Group 17 Joint Living Work Quarters for Artists (“JLWQA”), within an M1-5B zoning district, which increases non-compliance with regard to floor area contrary to ZR § 43-12; and

WHEREAS, a public hearing was held on this application on October 23, 2007, after due notice by publication in *The City Record*, with continued hearing on November 20, 2007, and then to decision on December 4, 2007; and

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

WHEREAS, counsel for a neighboring owner submitted written and oral testimony citing concern with the adverse effects that the proposed enlargement would have on the adjacent property’s access to light and air; and

WHEREAS, the subject site is located on the easterly side of Crosby Street, between Spring Street and Broome Street and have a lot area of 2,500 sq. ft.; and

WHEREAS, the site is occupied by a six-story building with a height of approximately 77’-9”, a floor area of 13,434 sq. ft., and an FAR of 5.34; and

WHEREAS, the building is occupied by six Use Group 17 JLWQA units; and

WHEREAS, the proposed enlargement to the sixth floor unit results in the enclosure of a portion of the existing roof, creating a building height of 90’-7” and an increase in the floor area by 410 sq. ft.; and

WHEREAS, the subject zoning district permits a maximum FAR of 5.0; the maximum floor area permitted is 12,583 sq. ft.; and

WHEREAS, the proposed enlargement will increase the floor area by approximately 2.96 percent, amounting to a total of 13,844 sq. ft. and an FAR of 5.50; and

WHEREAS, pursuant to ZR § 73-63, the Board may grant a request for alteration and enlargement of a non-residential building constructed prior to December 15, 1961, provided that such enlargement does not exceed ten percent above the maximum allowable floor area ratio for the subject zoning district, or 10,000 sq. ft. in floor area and does not create any new non-compliance; and

WHEREAS, the proposed enlargement of 410 sq. ft. is less than the maximum permitted 10,000 sq. ft.; and

WHEREAS, the final FAR of 5.50 proposed by the applicant does not exceed ten percent above the maximum allowable for the subject zoning district; and

WHEREAS, accordingly, the Board notes that the proposed final FAR of 5.50 is permitted under ZR § 73-63; and

WHEREAS, the proposed enlargement will be built within the as-of-right building envelope and will not create any new non-compliance or increase the amount of non non-compliance except as described above; and

WHEREAS, accordingly the Board has determined that the evidence in the record supports the findings to be made under ZR § 73-63; and

WHEREAS, pursuant to ZR § 73-03, the Board may not grant a request for alteration and enlargement of the site, if such enlargement would either: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; (3) be detrimental to the public welfare; or (4) interfere with any pending public improvement project; and

WHEREAS, based on the above, 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; (3) be detrimental to the public welfare; nor (4) interfere with any pending public improvement project ;and

WHEREAS, as to the neighbor’s concerns about effects of the enlargement on his light and air, a response by the applicant states that the proposed addition would not significantly further diminish the amount of available light and air which are already impeded or restricted by a large bulkhead,

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a rooftop “pop-up,” and a fence; and

WHEREAS, the Board reviewed the submissions of the neighbor and the applicant and reiterates that the proposed building is within the as-of-right building envelope and notes, as above, that all relevant findings of the special permit have been met; and

WHEREAS, accordingly, 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 § 73-03; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes each and every one of the required findings under ZR §§ 73-63 and 73-03 and grants a special permit pursuant, limited to the objections cited, to permit the enlargement of an existing six-story non-residential building containing Use Group 17 Joint Living Work Quarters for Artists within an M1-5B zoning district, which increases non-compliance with regard to floor area contrary to ZR § 43-12; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received September 27, 2007” – nineteen (19) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed enlargement: a floor area increase of 410 sq. ft., a total floor area of 13,844 sq. ft., and an FAR of 5.50;

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

THAT DOB shall review the existing and the proposed floor area calculations, prior to permitting;

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 substantial construction shall be completed within four years of the date of this resolution; 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, December 4, 2007.

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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**

APPEARANCES –

For Applicant: Lyra Altman and David Shteirman.

**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 4, 2007, acting on Department of Buildings Application No. 302376131, reads in pertinent part:

- “1. Proposed floor area is contrary to ZR 23-141.
  2. Proposed open space ratio is contrary to ZR 23-141.
  3. Proposed side yard is contrary to ZR 23-48.
  4. Proposed rear yard is contrary to ZR 23-47.”;
- and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space, side yard, and rear yard, contrary to ZR §§ 23-141, 23-47, and 23-48; and

WHEREAS, a public hearing was held on this application on October 30, 2007, after due notice by publication in *The City Record*, and then to decision on December 4, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Hinkson; and

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

WHEREAS, the subject site is located on the east side of East 26<sup>th</sup> Street, between Avenue L and Avenue M; and

WHEREAS, the subject site has a total lot area of 2,400 sq. ft., and is occupied by a single-family home with a floor area of 1,386 sq. ft. (0.72 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 1,386 sq. ft. (0.72 FAR), to 2,410.6 sq. ft. (1.0 FAR); the maximum floor area permitted is 1,200 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide open space of 1,284.6 sq. ft. (1,800 sq. ft. is the minimum required); and

WHEREAS, the proposed enlargement will maintain the two existing non-complying side yards with widths of 2’-1 ¼” and 4’-6 ¼” (side yards with a minimum width of 5’-0” each are required); and

WHEREAS, the proposed enlargement will provide a 23’-6” rear yard (a minimum rear yard of 30’-0” is

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required); and

WHEREAS, the enlargement of the building is not located within 20'-0" of the rear lot line; and

WHEREAS, at hearing the Board directed the applicant that the proposed dormers and bay windows must comply with zoning district regulations; and

WHEREAS, the applicant represents that the dormers comply with zoning district regulations; and

WHEREAS, the applicant agrees to have DOB review and approve the bay windows, canopies, and dormers; 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, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space, side yard, and rear yard, contrary to ZR §§ 23-141, 23-47, and 23-48; *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 November 20, 2007"-(7) 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 231.8 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 2,410.6 sq. ft. (1.0 FAR), a rear yard with a minimum depth of 23'-6", and open space of 1,284.6 sq. ft., as illustrated on the BSA-approved plans;

THAT all bay windows, canopies, and dormers shall be as approved by DOB;

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

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

granted; and

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

Adopted by the Board of Standards and Appeals, December 4, 2007.

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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

APPEARANCES –

For Applicant: Richard Lobel.

**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 30, 2007, acting on Department of Buildings Application No. 402640246, reads in pertinent part:

1. Proposed enlargement of existing building would increase non-complying lot coverage as per ZR 24-11, increasing the degree of non-compliance in violation of ZR 54-31.
2. Proposed enlargement of existing building would further obstruct non-complying side yard as per ZR 24-35, increasing the degree of non-compliance in violation of ZR 54-31."; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R5B zoning district, an enlargement to an existing community facility building, which does not comply with lot coverage and side yard regulations, contrary to ZR §§ 24-11, 24-35, and 54-31; and

WHEREAS, a public hearing was held on this application on October 30, 2007, after due notice by publication in the *City Record*, and then to decision on December 4, 2007; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by Chair Srinivasan; and

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

WHEREAS, the application is brought on behalf of the YMCA of Greater New York (the "YMCA"), a nonprofit

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institution; and

WHEREAS, the site is located on the southwest corner of Catalpa Avenue and 64<sup>th</sup> Street; and

WHEREAS, the site is square and has a lot area of approximately 10,000 sq. ft.; and

WHEREAS, the site is occupied by a two-story U-shaped building with a narrow central courtyard, with a width of approximately 16'-11"; and

WHEREAS, the building was built as a courthouse in the 1930s; and

WHEREAS, the YMCA occupies the entire two-story building for community facility (Use Group 4) purposes; and

WHEREAS, the building has a floor area of approximately 11,203 sq. ft. (1.12 FAR); and

WHEREAS, the applicant proposes to enlarge the building by filling in the open courtyard at the center of the building, which will increase the total building floor area by 984 sq. ft. to 12,187 sq. ft. (1.22 FAR) (2.0 FAR is the maximum permitted for a community facility in the subject zoning district); and

WHEREAS, the applicant represents that the proposed building will not create any new non-compliances except for lot coverage and one side yard; and

WHEREAS, the proposed enlargement will provide for a lot coverage of 78 percent (60 percent is the maximum permitted for a community facility in the subject zoning district); and

WHEREAS, the proposed enlargement will provide a side yard of 6'-0" at the south side of the building, which matches the existing side yard of 6'-0" on the remaining portions of the lot line (a side yard of 10'-0" is the minimum required); and

WHEREAS, the applicant represents that the variance request is necessitated by unique conditions of the site that create a hardship, specifically: (1) the constraints of the existing building and (2) the programmatic needs of the YMCA; and

WHEREAS, as to the constraints of the existing building, as noted above, the building was built as a courthouse approximately 70 years ago, but became functionally obsolete for that purpose and was given to the YMCA; and

WHEREAS, the constraints of the existing building include (1) the U-shape which creates two separate wings and does not allow for efficient floor plates or circulation on each floor and between floors, (2) several existing non-complying conditions, including the lot coverage and side yards, which restrict any enlargement, and (3) the absence of an elevator and an adequate staircase; and

WHEREAS, the applicant notes that, due to several existing non-complying conditions, it is unable to feasibly accommodate additional available floor area within an as-of-right building envelope, while providing the required yards; and

WHEREAS, the applicant seeks to alleviate the current space constraints in order to better accommodate its programming which includes after school childcare, teen programs, summer camps, and classes, while improving

physical accessibility; and

WHEREAS, specifically, the applicant states that the following are the programmatic space needs of the YMCA which require the requested waivers: (1) a need for a large contiguous area on the second floor for the cardio center, (2) a need to enlarge the substandard gymnasium, (3) a need to accommodate an increase in attendance, (4) a need for better visitor circulation within the building, and (5) a need to make the building more handicapped-accessible; and

WHEREAS, as to the need to expand and enlarge the activity space, the applicant represents that the creation of a new central corridor will permit the re-distribution of existing space into the cardio center and gymnasium; and

WHEREAS, as to attendance, the YMCA now serves approximately 300 visitors per day and continued increases are anticipated; and

WHEREAS, the applicant represents that the increased attendance requires a more efficient use of the space and better communication between floors; and

WHEREAS, as to visitor circulation, the applicant represents that the two wings of the building are largely cutoff from each other and access is constrained; and

WHEREAS, the applicant proposes to devote the enclosed courtyard to a new stairwell and an elevator to improve circulation in the building and allow for handicapped-accessibility; and

WHEREAS, in sum, the building as enlarged will provide for the enlargement of existing activity space, a central corridor with a new staircase and elevator for improved circulation space, and improved handicapped-accessibility; and

WHEREAS, the Board finds that these programmatic needs are legitimate, and agrees that the enlargement is necessary to address the YMCA's programmatic needs, given the limitations of the existing building; and

WHEREAS, accordingly, based upon the above, the Board finds that the limitations and inefficiencies of the existing building, when considered in conjunction with the programmatic needs of the YMCA, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the YMCA is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that the variance, if granted, 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 increase in lot coverage is limited to the enclosure of a central courtyard, the majority of which will not be visible from the street; and

WHEREAS, the applicant states that the adjacent two-family home to the south of the site is 14 feet away from the YMCA building and does not have any windows on its northern wall, so any potential effects of the enlargement

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into the side yard would be minimal; and

WHEREAS, further, the applicant notes that the proposed side yard on the south side of the site matches the existing side yard on the south lot line; and

WHEREAS, the applicant also notes that the only change to the building's envelope will be the enclosure of a courtyard; and

WHEREAS, the applicant asserts that the proposed building is compatible with the context of the immediate area, which is occupied by multiple dwellings, a house of worship, a police station, and commercial use; and

WHEREAS, the applicant represents that there will be no significant increase in patronage associated directly with the YMCA's enlargement because the enlargement seeks primarily to improve the efficiency of the floor plates and circulation; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the YMCA could occur on the existing lot; and

WHEREAS, the Board notes that in 1965, when Queens County terminated the use of the subject building as a courthouse, it gave the YMCA the building, which had several pre-existing non-complying bulk parameters dating back to the building's construction in the 1930s; and

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

WHEREAS, the applicant represents that the requested lot coverage and side yard waivers are the minimum necessary to accommodate the current and projected programmatic needs; and

WHEREAS, the Board notes that the applicant will locate the majority of the enlargement within the existing building envelope so as to minimize any impact; and

WHEREAS, accordingly, the Board finds that the requested relief is the minimum necessary to allow the YMCA to fulfill its programmatic needs; 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 Type II action pursuant to Sections 617.5(c) of 6 NYCRR; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II determination, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R5B zoning district, an enlargement to an existing community facility building, which does not comply

with lot coverage and side yard regulations, contrary to ZR §§ 24-11, 24-35, and 54-31, *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 October 24, 2007"- Seven (7) sheets; and *on further condition*:

THAT the total building floor area post-enlargement shall not exceed 12,187 sq. ft., as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, December 4, 2007.

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## **311-06-BZ thru 313-06-BZ**

APPLICANT – Rothkrug, Rothkrug, & Spector, LLP, for White Star Lines LLC.

SUBJECT – Application December 4, 2006 – Zoning variance under §72-21 to allow three, four (4) story residential buildings containing a total of six (6) dwelling units, contrary to use regulations (§42-10); M1-1 district.

PREMISES AFFECTED – 300/302/304 Columbia Street, Northwest corner of Columbia Street and Woodhull Street, Block 357, Lots 38, 39, 40. Borough of Brooklyn.

### **COMMUNITY BOARD #6BK**

APPEARANCES –

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** – Laid over to January 29, 2008, at 1:30 P.M., for deferred decision.

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## **65-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Ship Management Corp., owner.

SUBJECT – Application March 15, 2007 – Variance (§72-21) to allow a one-story (UG 6) retail building to violate use regulations (§22-00). R3-2 district.

PREMISES AFFECTED – 146-93 Guy R. Brewer Boulevard, northeastern intersection of 147<sup>th</sup> Avenue and Guy R. Brewer Boulevard, Block 13354, Lot 12, Borough of Queens.

### **COMMUNITY BOARD #13Q**

APPEARANCES –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** – Laid over to January 15, 2007, at 1:30 P.M., for continued hearing.

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**78-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Phyllis Balsam, owner; Shape-N-Up Fitness Club, LLC; lessee.

SUBJECT – Application April 12, 2007 – Special Permit (§73-36) to allow the operation of a PCE on the first floor of a two-story commercial building. The proposal is contrary to §42-00. M1-1 district.

PREMISES AFFECTED – 2515 McDonald Avenue, east side of McDonald Avenue, between Avenues W and X, Block 7173, Lot 58, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Sam Chera.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to January 15, 2007, at 1:30 P.M., for continued hearing.

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**730-72-BZ**

APPLICANT – Sheldon Lobel, P.C., for Phyllis Balsam, owner; Shape-N-Up Fitness Club, LLC; lessee.

SUBJECT – Application October 10, 2007 – Amendment to permit the operation of a Physical Culture Establishment on the first floor of the enlarged portion of an existing building.

PREMISES AFFECTED – 2515 McDonald Avenue, east side of McDonald Avenue, between Avenues W and X, Block 7173, Lot 58, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Sam Chera.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to January 15, 2007, at 1:30 P.M., for continued hearing.

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**121-07-BZ**

APPLICANT – Juan D. Reyes, III, for 400 Victory Boulevard Trust, owner.

SUBJECT – Application May 11, 2007 – Variance (§72-21) to permit the legalization of a Physical Culture Establishment on the first and second floors of an existing nonconforming warehouse building. The proposal is contrary to section 22-00. The Premises is located in an R3-2 zoning district within the Special Hillside Preservation District.

PREMISES AFFECTED – 400 Victory Boulevard, between Austin Place and Cobra Avenue, Block 579, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES –

For Applicant: Juan D. Reyes, III.

**ACTION OF THE BOARD** – Laid over to January 15, 2007, at 1:30 P.M., for continued hearing.

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**124-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Gino Masci, owner.

SUBJECT – Application May 16, 2007 – Under (§ 72-21) to allow UG 6 (eating and drinking) on the first floor and cellar of an existing seven-story building, contrary to use regulations (§ 42-14(d)(2)(b)). M1-5B district.

PREMISES AFFECTED – 521 Broome Street, between Broome and Watts Streets, midblock between Thompson Street and Sixth Avenue, Block 476, Lot 23, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** – Laid over to January 15, 2007, at 1:30 P.M., for continued hearing.

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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**

APPEARANCES –

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** – Laid over to January 8, 2007, at 1:30 P.M., for continued hearing.

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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**

APPEARANCES –

For Applicant: Howard Hornstein and Peter Geis.

For Opposition: John Gorman, Mary Placanica, John Antonides, Anthony Piana and Theresa Marchitello.

THE VOTE TO CLOSE HEARING –

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

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Negative:.....0  
**ACTION OF THE BOARD** – Laid over to January 8, 2007, at 1:30 P.M., for decision, hearing closed.  
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**160-07-BZ thru 162-07-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector, for Cannon Tower, LLC, owner.

SUBJECT – Application June 14, 2007 – Variance (§72-21) to allow a three (3), three-story attached residential buildings; contrary to regulations for use (§ 22-12), side yards (§ 23-461(a)), maximum number of dwelling units (§ 23-22), perimeter wall height (§ 23-631), and FAR (§ 23-141). R4A district.

PREMISES AFFECTED – 3880, 3882, 3884 Cannon Place (formerly known at 3918 Orloff Avenue) south side of Cannon Place at the intersection of Cannon Place and Orloff Avenue, Block 3263, Lots 357, 358, 258, Borough of the Bronx.

**COMMUNITY BOARD #8BX**

APPEARANCES –

For Applicant: Adam Rothkrug and Ivan Bolton.

For Opposition: Assemblymember Jeffrey Dinowitz, Tony Perez Cassino, Jamin R. Sewell (Office of Councilmember Koppel, Howard Levinger, Jerald Levinger, Jerald Kreppel and Lynn Schwarz.

**ACTION OF THE BOARD** – Laid over to January 29, 2007, at 1:30 P.M., for continued hearing.  
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**193-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Alex Gonter and Mark Gonter, owners.

SUBJECT – Application August 7, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space (23-141); side yard (23-461) and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 3591 Bedford Avenue, eastern side of Bedford Avenue between Avenue N and O, Block 7679, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** – Laid over to January 15, 2007, at 1:30 P.M., for postponed hearing.  
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**201-07-BZ**

APPLICANT – Cozen O’Connor Attorneys, for Kapsin & Dallis Realty, Corp., owner.

SUBJECT – Application August 14, 2007 – Variance (§72-21) to permit a new one-story bank. The proposal is contrary to section 22-00. R3-2 district.

PREMISES AFFECTED – 2317 Ralph Avenue, southwest corner of Ralph Avenue and Avenue M, Block 8364, Lot 34, Borough of Brooklyn.

**COMMUNITY BOARD # 18BK**

APPEARANCES –

For Applicant: Peter Geis and Howard Hornstein.

**ACTION OF THE BOARD** – Laid over to January 15, 2007, at 1:30 P.M., for continued hearing.  
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**216-07-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector, for Casa 74<sup>th</sup> Street, LLC, owner.

SUBJECT – Application September 20, 2007 – Special Permit (§73-36) to allow a physical culture establishment on all five levels of a mixed-use building under construction. The proposal is contrary to section 32-10. C1-9 district.

PREMISES AFFECTED – 255 East 74<sup>th</sup> Street, aka 1429 Second Avenue, corner of East 74<sup>th</sup> Street and Second Avenue, Block 1429, Lot 21, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES –

For Applicant: Adam W. Rothkrug.

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 January 8, 2007, at 1:30 P.M., for decision, hearing closed.  
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**223-07-BZ**

APPLICANT – Jay A. Segal, Greenberg Traurig, LLP, for Trigon 57 LLC, owner; Blissworld LLC, lessee.

SUBJECT – Application September 28, 2007 – Special Permit (73-36) to legalize a physical culture establishment on the third floor in an existing commercial building. The proposal is contrary to section 32-10. C5-3 Special Midtown District.

PREMISES AFFECTED – 12 West 57<sup>th</sup> Street, a/k/a 10-14 W. 57<sup>th</sup> Street, south side of West 57<sup>th</sup> Street, between Fifth and Sixth Avenues, Block 1272, Lot 47, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES – None.

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 January 8, 2007, at 1:30 P.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

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## \*CORRECTION

This resolution adopted on November 20, 2007, under Calendar No. 146-07-BZ and printed in Volume 92, Bulletin Nos. 44-45, is hereby modified to read as follows:

### 146-07-BZ

#### CEQR #07-BSA-095M

APPLICANT – Slater & Beckerman, LLP, for PDPR Realty Corporation, owner.

SUBJECT – Application June 5, 2007 – Application filed pursuant to §§11-411 & 11-412 for the structural alteration and enlargement of a pre-existing nonconforming two-story parking (Use Group 8) garage allowed by a 1924 BSA action. The proposal would permit the addition of a third floor and a first floor mezzanine and the expansion of the cellar in order to increase the capacity of the public parking garage from 96 cars to the proposed 147 cars. The project is located in an R8B zoning district.

PREMISES AFFECTED – 439 East 77<sup>th</sup> Street, North side of East 77<sup>th</sup> Street, Between First and York Avenues. Block 1472, Lot 17, Borough of Manhattan.

#### COMMUNITY BOARD #8M

#### APPEARANCES –

For Applicant: Stuart Beckerman.

**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 Manhattan Borough Commissioner, dated May 6, 2007, acting on Department of Buildings Application No. 104747204, reads in pertinent part:

“The proposed enlargement and conversion is not permitted as-of-right in zoning district R8B and is contrary to ZR 22-10 and requires BSA special permit pursuant to ZR 11-412;” and

WHEREAS, this is an application under ZR § 11-412 to permit, within an R8B zoning district, the structural alteration and enlargement of an existing nonconforming two-story public parking garage (Use Group 8) to add a first floor mezzanine, third floor, and to expand the cellar to increase the capacity of the garage from 96 cars to 162 cars; and

WHEREAS, a public hearing was held on this application on July 21, 2007, after due notice by publication in *The City Record*, with continued hearings on September 18, 2007 and October 16, 2007, and then to decision on November 20, 2007; and

WHEREAS, the site 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, Manhattan, recommends approval of this application provided that the

applicant use a non-illuminated accessory sign at the subject building; and

WHEREAS, the site is located on the north side of East 77<sup>th</sup> Street, 144 ft. west of York Avenue within an R8B zoning district; and

WHEREAS, the site is occupied by a two-story public parking garage with 14,572 sq. ft. of floor area, with full lot coverage at the first and second floors of the of 7,236 sq. ft. lot; and

WHEREAS, on April 8, 1924, under BSA Cal. No. 221-24-BZ, the Board approved an application to permit the construction of a two-story garage for the storage of more than five motor vehicles – the existing 96-car garage - in a business district; and

WHEREAS, in an earlier iteration of the current proposal, the applicant proposed a 147-car three-story garage with a total floor area of 20,543 sq. ft. (2.8 FAR), a wall height of 49’-10”, and a 20’-0” rear yard setback at the third floor; and

WHEREAS, the current proposal is for a 162-car three-story garage with a total floor area of 19,869 square feet (2.75 FAR), a wall height of 59’-0”, and a 30’-0” rear yard setback above the second floor; and

WHEREAS, as to the proposed building: (1) the cellar level will be expanded to approximately 7,236 sq. ft. of floor space; (2) a mezzanine containing 263 sq. ft. in floor area will be constructed at the first floor; (3) a third floor will be constructed with approximately 5,100 sq. ft. of floor area; and (4) connecting ramps and a vehicle elevator will be constructed to allow transit between floors; and

WHEREAS, pursuant to ZR § 11-412, the Board may grant a request for alteration and enlargement of the site, provided that such enlargement does not exceed fifty percent of the floor area existing on December 15, 1961; and

WHEREAS, the applicant proposes to add 5,297 sq. ft. of floor area to the existing 14,572 sq. ft. building; and

WHEREAS, the Board notes that the proposed floor area increase of 36.4 percent is permitted under ZR § 11-412; and

WHEREAS, at hearing, the Board raised concerns about the increased non-compliance of the rear yard, originally proposed at 20’-0” above the second floor; and

WHEREAS, the applicant responded by increasing the rear yard above the second floor from 20’-0” to 30’-0”; and

WHEREAS, the applicant notes that increasing the rear yard above the second floor reduced the proposed floor area and the capacity of the garage; and

WHEREAS, accordingly, the applicant proposes to raise the floor-to-ceiling height of the third floor to 25’-0” from the 15’-0” originally proposed, to accommodate triple-level auto stackers; and

WHEREAS, at hearing, the Board questioned whether the proposed floor to ceiling height was necessary to accommodate the triple-level stackers; and

WHEREAS, the applicant submitted specifications of triple stackers approved by the Department of Buildings that required the requested floor to ceiling height; and

WHEREAS, the applicant further noted that the height of the enlarged building is within the maximum base height

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of 60'-0" and is less than the 75'-0" maximum total height permitted in the zoning district and the height of both abutting buildings; and

WHEREAS, at hearing, the Board questioned whether the third floor enlargement could be set back by five feet in the front to align the building's street wall with those of the adjacent buildings on East 77<sup>th</sup> Street; and

WHEREAS, the applicant responded that a 5'-0" setback would create a practical difficulty in accommodating the car elevator which is 22'-0" deep, and would require the structural support of the building to be reconfigured and reconstructed; and

WHEREAS, the applicant originally proposed no reservoir spaces; the Board questioned whether cars waiting to enter the garage would block pedestrians and vehicular traffic on the street; and

WHEREAS, the applicant subsequently agreed to provide nine reservoir spaces, representing five percent of the total of 162 spaces, and assured the Board that this number was sufficient for a garage of this size located in a predominately residential neighborhood, where most cars would be parked long term on a monthly basis; and

WHEREAS, at hearing, the Board also asked the applicant if the signage complies with relevant zoning district regulations; and

WHEREAS, the applicant responded that the existing sign is a legal non-conforming non-illuminated sign installed in the 1920s that is within the zoning district regulations; and

WHEREAS, the Board noted that the signage in the aggregate is within the parameters of that permitted and agreed that the proposed signage is appropriate; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Environmental Assessment Statement (EAS) CEQR No. 07BSA095M, dated June 6, 2007; and

WHEREAS, the EAS documents show 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, according to the Phase I Environmental Site Assessment, there are two abandoned 550-gallon gasoline tanks, an inactive boiler, and an active boiler served by a 550-gallon above ground storage tank located in a former mechanic shop on the premises; and

WHEREAS, in a submission to the Board, the applicant represents that this equipment will be removed in accordance with the NYC Building Code and the requirements of the NYS Department of Environmental Conservation; 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; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and grants a permit under ZR § 11-412 to allow, within an R8B zoning district, the structural alteration and enlargement of an existing nonconforming two-story public parking garage (Use Group 8), *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"-(4) sheets, "October 2, 2007"-(3) sheets and "November 7, 2007" – (3) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: three stories, a total floor area of 19,869 sq. ft. (2.75 FAR), a total height of 59'-0"; and a rear yard of 30'-0" above the second floor;

THAT the number of parking spaces shall be limited to 162;

THAT a minimum of nine reservoir spaces shall be provided at the ground level;

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

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

THAT DOB will confirm compliance with equipment specifications for all auto stackers;

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."

Adopted by the Board of Standards and Appeals, November 20, 2007.

**\*\*The resolution has been corrected in the Approved Plans clause. Corrected in Bulletin No. 47, Vol. 92, dated December 13, 2007.**